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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. ____

To make high-speed broadband internet service accessible and affordable to all Americans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. CLYBURN introduced the following bill; which was referred to the Committee on _____

A BILL

To make high-speed broadband internet service accessible and affordable to all Americans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Accessible, Affordable Internet for All Act”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Sense of Congress.
Sec. 4. Severability.

TITLE I—DIGITAL EQUITY

Sec. 1000. Definitions.

Subtitle A—Office of Internet Connectivity and Growth

Sec. 1101. Annual report of Office.

Sec. 1102. Study and report on affordability of adoption of broadband service.

Sec. 1103. Authorizations of appropriations.

Sec. 1104. Study and recommendations to connect socially disadvantaged individuals.

Subtitle B—Digital Equity Programs

Sec. 1201. State Digital Equity Capacity Grant Program.

Sec. 1202. Digital Equity Competitive Grant Program.

Sec. 1203. Policy research, data collection, analysis and modeling, evaluation, and dissemination.

Sec. 1204. General provisions.

TITLE II—BROADBAND AFFORDABILITY AND PRICING TRANSPARENCY

Subtitle A—Broadband Affordability

Sec. 2101. Authorization for additional funds for the Emergency Broadband Connectivity Fund.

Sec. 2102. Grants to States to strengthen National Lifeline Eligibility Verifier.

Sec. 2103. Federal coordination between National Eligibility Verifier and National Accuracy Clearinghouse.

Sec. 2104. Definitions.

Subtitle B—Additional Authorization for Emergency Connectivity Fund

Sec. 2201. Additional authorization for Emergency Connectivity Fund.

Subtitle C—Pricing Transparency

Sec. 2301. Definitions.

Sec. 2302. Broadband transparency.

Sec. 2303. Distribution of data.

Sec. 2304. Coordination with certain other Federal agencies.

Sec. 2305. Adoption of consumer broadband labels.

Sec. 2306. GAO report.

TITLE III—BROADBAND ACCESS

Subtitle A—Expansion of Broadband Access

Sec. 3101. Expansion of broadband access in unserved areas and areas with low-tier or mid-tier service.

Sec. 3102. Tribal internet expansion.

Subtitle B—Broadband Infrastructure Finance and Innovation

Sec. 3201. Short title.
Sec. 3202. Definitions.
Sec. 3203. Determination of eligibility and project selection.
Sec. 3204. Secured loans.
Sec. 3205. Lines of credit.
Sec. 3206. Alternative prudential lending standards for small projects.
Sec. 3207. Program administration.
Sec. 3208. State and local permits.
Sec. 3209. Regulations.
Sec. 3210. Funding.
Sec. 3211. Reports to Congress.

Subtitle C—Wi-Fi on School Buses

Sec. 3301. E-rate support for school bus Wi-Fi.

TITLE IV—COMMUNITY BROADBAND

Sec. 4001. State, local, public-private partnership, and co-op broadband services.

TITLE V—BROADBAND INFRASTRUCTURE DEPLOYMENT

Sec. 5001. Broadband infrastructure deployment.

SEC. 2. DEFINITIONS.

In this Act:

(1) **AGING INDIVIDUAL.**—The term “aging individual” has the meaning given the term “older individual” in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002).

(2) **APPROPRIATE COMMITTEES OF CONGRESS.**—The term “appropriate committees of Congress” means—

(A) the Committee on Appropriations of the Senate;

(B) the Committee on Commerce, Science, and Transportation of the Senate;

(C) the Committee on Appropriations of the House of Representatives; and

(D) the Committee on Energy and Commerce of the House of Representatives.

(3) ASSISTANT SECRETARY.—The term “Assistant Secretary” means the Assistant Secretary of Commerce for Communications and Information.

(4) COMMISSION.—The term “Commission” means the Federal Communications Commission.

(5) COVERED HOUSEHOLD.—The term “covered household” means a household the income of which does not exceed 150 percent of the poverty threshold, as determined by using criteria of poverty established by the Bureau of the Census, for a household of the size involved.

(6) COVERED POPULATIONS.—The term “covered populations” means—

(A) individuals who are members of covered households;

(B) aging individuals;

(C) incarcerated individuals, other than individuals who are incarcerated in a Federal correctional facility (including a private facility operated under contract with the Federal Government);

(D) veterans;

(E) individuals with disabilities;

(F) individuals with a language barrier, including individuals who—

(i) are English learners; or

(ii) have low levels of literacy;

(G) individuals who are members of a racial or ethnic minority group; and

(H) individuals who primarily reside in a rural area.

(7) **DIGITAL LITERACY.**—The term “digital literacy” means the skills associated with using technology to enable users to find, evaluate, organize, create, and communicate information.

(8) **DISABILITY.**—The term “disability” has the meaning given the term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

(9) **FEDERAL AGENCY.**—The term “Federal agency” has the meaning given the term “agency” in section 551 of title 5, United States Code.

(10) **INDIAN TRIBE.**—The term “Indian Tribe” has the meaning given such term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(e)).

(11) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education”—

(A) has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); and

(B) includes a postsecondary vocational institution.

(12) **POSTSECONDARY VOCATIONAL INSTITUTION.**—The term “postsecondary vocational institution” has the meaning given the term in section 102(c) of the Higher Education Act of 1965 (20 U.S.C. 1002(c)).

(13) **RURAL AREA.**—The term “rural area” has the meaning given the term in section 13 of the Rural Electrification Act of 1936 (7 U.S.C. 913).

(14) **STATE.**—The term “State” has the meaning given the term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(15) **VETERAN.**—The term “veteran” has the meaning given the term in section 101 of title 38, United States Code.

SEC. 3. SENSE OF CONGRESS.

(a) IN GENERAL.—It is the sense of Congress that—

(1) a broadband service connection and digital literacy are increasingly critical to how individuals—

(A) participate in the society, economy, and civic institutions of the United States; and

(B) access health care and essential services, obtain education, and build careers;

(2) digital exclusion—

(A) carries a high societal and economic cost;

(B) materially harms the opportunity of an individual with respect to the economic success, educational achievement, positive health outcomes, social inclusion, and civic engagement of that individual;

(C) materially harms the opportunity of areas where it is especially widespread with respect to economic success, educational achievement, positive health outcomes, social cohesion, and civic institutions; and

(D) exacerbates existing wealth and income gaps, especially those experienced by covered populations and between regions;

(3) achieving accessible and affordable access to broadband service, as well as digital literacy, for all people of the United States requires additional and sustained research efforts and investment;

(4) the Federal Government, as well as State, Tribal, and local governments, have made social, legal, and economic obligations that necessarily extend to how the citizens and residents of those governments access and use the internet; and

(5) achieving accessible and affordable access to broadband service is a matter of social and economic justice and is worth pursuing.

(b) BROADBAND SERVICE DEFINED.—In this section, the term “broadband service” has the meaning given the term “broadband internet access service” in section 8.1(b) of title 47, Code of Federal Regulations, or any successor regulation.

SEC. 4. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision or amendment to any other person or circumstance, shall not be affected thereby.

TITLE I—DIGITAL EQUITY

SEC. 1000. DEFINITIONS.

In this title:

(1) ADOPTION OF BROADBAND SERVICE.—The term “adoption of broadband service” means the process by which an individual obtains daily access to broadband service—

(A) with a download speed of at least 25 megabits per second, an upload speed of at least 3 megabits per second, and a latency that is sufficiently low to allow real-time, interactive applications;

(B) with the digital skills that are necessary for the individual to participate online; and

(C) on a—

(i) personal device; and

(ii) secure and convenient network.

(2) ANCHOR INSTITUTION.—The term “anchor institution” means a public or private school, a library, a medical or healthcare provider, a museum, a public safety entity, a public housing agency, a community college, an institution of higher education, a religious organization, or any other community support organization or agency.

(3) **ASSISTANT SECRETARY.**—The term “Assistant Secretary” means the Assistant Secretary, acting through the Office.

(4) **BROADBAND SERVICE.**—The term “broadband service” has the meaning given the term “broadband internet access service” in section 8.1(b) of title 47, Code of Federal Regulations, or any successor regulation.

(5) **COVERED PROGRAMS.**—The term “covered programs” means the State Digital Equity Capacity Grant Program established under section 1201 and the Digital Equity Competitive Grant Program established under section 1202.

(6) **DIGITAL EQUITY.**—The term “digital equity” means the condition in which individuals and communities have the information technology capacity that is needed for full participation in the society and economy of the United States.

(7) **DIGITAL INCLUSION ACTIVITIES.**—The term “digital inclusion activities”—

(A) means the activities that are necessary to ensure that all individuals in the United States have access to, and the use of, affordable information and communication technologies, such as—

(i) reliable broadband service;

(ii) internet-enabled devices that meet the needs of the user; and

(iii) applications and online content designed to enable and encourage self-sufficiency, participation, and collaboration; and

(B) includes—

(i) the provision of digital literacy training;

(ii) the provision of quality technical support; and

(iii) promoting basic awareness of measures to ensure online privacy and cybersecurity.

(8) **ELIGIBLE STATE.**—The term “eligible State” means—

(A) with respect to planning grants made available under section 1201(c)(3), a State with respect to which the Assistant Secretary has approved an application submitted to the Assistant Secretary under subparagraph (C) of such section; and

(B) with respect to capacity grants awarded under section 1201(d), a State with respect to which the Assistant Secretary has approved an application submitted to the Assistant Secretary under paragraph (2) of such section.

(9) **FEDERAL BROADBAND SUPPORT PROGRAM.**—The term “Federal broadband support program” has the meaning given such term in section 903 of division FF of the Consolidated Appropriations Act, 2021 (Public Law 116–260).

(10) **GENDER IDENTITY.**—The term “gender identity” has the meaning given the term in section 249(c) of title 18, United States Code.

(11) **LOCAL EDUCATIONAL AGENCY.**—The term “local educational agency” has the meaning given the term in section 8101(30) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(30)).

(12) **MEDICAID ENROLLEE.**—The term “Medicaid enrollee” means, with respect to a State, an individual enrolled in the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or a waiver of that plan.

(13) **NATIONAL LIFELINE ELIGIBILITY VERIFIER.**—The term “National Lifeline Eligibility Verifier” has the meaning given such term in section 54.400 of title 47, Code of Federal Regulations (or any successor regulation).

(14) **NATIVE HAWAIIAN ORGANIZATION.**—The term “Native Hawaiian organization” means any organization—

(A) that serves the interests of Native Hawaiians;

(B) in which Native Hawaiians serve in substantive and policymaking positions;

(C) that has as a primary and stated purpose the provision of services to Native Hawaiians; and

(D) that is recognized for having expertise in Native Hawaiian affairs, digital connectivity, or access to broadband service.

(15) **OFFICE.**—The term “Office” means the Office of Internet Connectivity and Growth within the National Telecommunications and Information Administration.

(16) **PUBLIC HOUSING AGENCY.**—The term “public housing agency” has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(17) **SNAP PARTICIPANT.**—The term “SNAP participant” means an individual who is a member of a household that participates in the supplemental nutrition assistance program under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

(18) **SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERN.**—The term “socially and economically disadvantaged small business concern” has the meaning given the term in section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4)).

(19) **TRIBALLY DESIGNATED ENTITY.**—The term “tribally designated entity” means an entity designated by an Indian Tribe to carry out activities under this title.

(20) **UNIVERSAL SERVICE FUND PROGRAM.**—The term “Universal Service Fund Program” has the meaning given such term in

section 903 of division FF of the Consolidated Appropriations Act, 2021 (Public Law 116–260).

(21) WORKFORCE DEVELOPMENT PROGRAM.—The term “workforce development program” has the meaning given the term in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

subtitle A—Office of Internet Connectivity and Growth

SEC. 1101. ANNUAL REPORT OF OFFICE.

Section 903(c)(2)(C) of division FF of the Consolidated Appropriations Act, 2021 (Public Law 116–260) is amended by adding at the end the following:

“(iv) A description of any non-economic benefits of such broadband deployment efforts, including any effect on civic engagement.

“(v) The extent to which residents of the United States that received broadband as a result of Federal broadband support programs and the Universal Service Fund Programs received broadband at the download and upload speeds required by such programs.”.

SEC. 1102. STUDY AND REPORT ON AFFORDABILITY OF ADOPTION OF BROADBAND SERVICE.

Section 903 of division FF of the Consolidated Appropriations Act, 2021 (Public Law 116–260) is amended—

(1) by redesignating subsections (g) and (h) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (f) the following:

“(g) STUDY AND REPORT ON AFFORDABILITY OF ADOPTION OF BROADBAND SERVICE.—

“(1) STUDY.—The Office, in consultation with the Commission, the Department of Agriculture, the Department of the Treasury, and

such other Federal agencies as the Office considers appropriate, shall, not later than 1 year after the date of the enactment of this subsection, and biennially thereafter, conduct a study that examines the following:

“(A) The number of households for which cost is a barrier to the adoption of broadband service, the financial circumstances of such households, and whether such households are eligible for the emergency broadband benefit under section 904 of division N.

“(B) The extent to which the cost of adoption of broadband service is a financial burden to households that have adopted broadband service, the financial circumstances of such financially burdened households, and whether such households are receiving the emergency broadband benefit under section 904 of division N.

“(C) The appropriate standard to determine whether adoption of broadband service is affordable for households, given the financial circumstances of such households.

“(D) The feasibility of providing additional Federal subsidies, including expanding the eligibility for or increasing the amount of the emergency broadband benefit under section 904 of division N, to households to cover the difference between the cost of adoption of broadband service (determined before applying such additional Federal subsidies) and the price at which adoption of broadband service would be affordable.

“(E) How a program to provide additional Federal subsidies as described in subparagraph (D) should be administered to most effectively facilitate adoption of broadband service at the lowest overall expense to the Federal Government, including measures that would ensure that the availability of the subsidies does not result in providers raising the price of broadband service for households receiving subsidies.

“(F) How participation in the Lifeline program of the Commission has changed in the 5 years prior to the date of the enactment of this Act, including—

“(i) geographic information at the census-block level depicting the scale of change in participation in each area; and

“(ii) information on changes in participation by specific types of Lifeline-supported services, including fixed voice telephony service, mobile voice telephony service, fixed broadband service, and mobile broadband service and, in the case of any Lifeline-supported services provided as part of a bundle of services to which a Lifeline discount is applied, which Lifeline-supported services are part of such bundle and whether or not each Lifeline-supported service in such bundle meets Lifeline minimum service standards.

“(G) How competition impacts the price of broadband service, including the impact of monopolistic business practices by broadband service providers.

“(H) The extent to which, if at all, the Universal Service Fund high-cost programs have enabled access to reasonably comparable telephony and broadband services at reasonably comparable rates in high-cost rural areas as required by the Communications Act of 1934 (47 U.S.C. 151 et seq.), including a comparison of the rates charged by recipients of support under such programs in rural areas and rates charged in urban areas, as determined by the Commission’s annual survey.

“(2) REPORT.—Not later than 1 year after the date of the enactment of this subsection, and biennially thereafter, the Office shall submit to Congress a report on the results of the study conducted under paragraph (1).

“(3) DEFINITIONS.—In this subsection:

“(A) COST.—The term ‘cost’ means, with respect to adoption of broadband service, the cost of adoption of broadband service to a household after applying any subsidies that reduce such cost.

“(B) OTHER DEFINITIONS.—The terms ‘adoption of broadband service’ and ‘broadband service’ have the meanings

given such terms in section 1000 of the Accessible, Affordable Internet for All Act.”.

SEC. 1103. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Assistant Secretary \$26,000,000 for each of the fiscal years 2022 through 2026 for the operations of the Office.

SEC. 1104. STUDY AND RECOMMENDATIONS TO CONNECT SOCIALLY DISADVANTAGED INDIVIDUALS.

Section 903 of division FF of the Consolidated Appropriations Act, 2021 (Public Law 116–260), as amended by section 1102, is further amended by inserting before subsection (i) (as redesignated by such section) the following:

“(h) STUDY AND RECOMMENDATIONS TO CONNECT SOCIALLY DISADVANTAGED INDIVIDUALS.—

“(1) IN GENERAL.—Not later than 12 months after the date of the enactment of this subsection, the Office, in consultation with the Commission and the Rural Utilities Service of the Department of Agriculture, shall, after public notice and an opportunity for comment, conduct a study to assess the extent to which Federal funds for broadband service, including the Universal Service Fund Programs and other Federal broadband support programs, have expanded access to and adoption of broadband service by socially disadvantaged individuals as compared to individuals who are not socially disadvantaged individuals.

“(2) REPORT AND PUBLICATION.—

“(A) SUBMISSION.—Not later than 18 months after the date of the enactment of this subsection, the Office shall submit a report on the results of the study under paragraph (1) to—

“(i) the Committee on Energy and Commerce of the House of Representatives;

“(ii) the Committee on Commerce, Science, and Transportation of the Senate; and

“(iii) each agency administering a program evaluated by such report.

“(B) PUBLIC PUBLICATION.—Contemporaneously with submitting the report required by subparagraph (A), the Office shall publish such report on the public-facing website of the Office.

“(C) RECOMMENDATIONS.—The report required by subparagraph (A) shall include recommendations with regard to how Federal funds for the Universal Service Fund Programs and Federal broadband support programs may be dispersed in an a manner that better expands access to and adoption of broadband service by socially disadvantaged individuals as compared to individuals who are not socially disadvantaged individuals.

“(3) DEFINITIONS.—In this subsection:

“(A) SOCIALLY DISADVANTAGED INDIVIDUAL.—The term ‘socially disadvantaged individual’ has the meaning given that term in section 8 of the Small Business Act (15 U.S.C. 637).

“(B) OTHER DEFINITIONS.—The terms ‘adoption of broadband service’ and ‘broadband service’ have the meanings given such terms in section 1000 of the Accessible, Affordable Internet for All Act.”.

subtitle B—Digital Equity Programs

SEC. 1201. STATE DIGITAL EQUITY CAPACITY GRANT PROGRAM.

(a) ESTABLISHMENT; PURPOSE.—

(1) IN GENERAL.—The Assistant Secretary shall establish in the Office the State Digital Equity Capacity Grant Program (referred to in this section as the “Program”)—

(A) the purpose of which is to promote the achievement of digital equity, support digital inclusion activities, and build capacity for efforts by States relating to the adoption of broadband service by residents of those States;

(B) through which the Assistant Secretary shall make grants to States in accordance with the requirements of this section; and

(C) which shall ensure that States have the capacity to promote the achievement of digital equity and support digital inclusion activities.

(2) CONSULTATION WITH OTHER FEDERAL AGENCIES;
NO CONFLICT.—In establishing the Program under paragraph (1), the Assistant Secretary shall—

(A) consult with—

(i) the Secretary of Agriculture;

(ii) the Secretary of Housing and Urban Development;

(iii) the Secretary of Education;

(iv) the Secretary of Labor;

(v) the Secretary of Health and Human Services;

(vi) the Secretary of Veterans Affairs;

(vii) the Secretary of the Interior;

(viii) the Assistant Secretary for Indian Affairs of the Department of the Interior;

(ix) the Commission;

(x) the Federal Trade Commission;

(xi) the Director of the Institute of Museum and Library Services;

(xii) the Administrator of the Small Business Administration;

(xiii) the Federal Cochairman of the Appalachian Regional Commission; and

(xiv) the head of any other Federal agency that the Assistant Secretary determines to be appropriate; and

(B) ensure that the Program complements and enhances, and does not conflict with, other Federal broadband support programs and Universal Service Fund Programs.

(3) TRIBAL AND NATIVE HAWAIIAN CONSULTATION AND ENGAGEMENT.—In establishing the Program under paragraph (1), the Assistant Secretary shall conduct robust, interactive, pre-decisional, transparent consultation with Indian Tribes and Native Hawaiian organizations.

(b) ADMINISTERING ENTITY.—

(1) SELECTION; FUNCTION.—The governor (or equivalent official) of a State that wishes to be awarded a grant under this section shall, from among entities that are eligible under paragraph (2), select an administering entity for that State, which shall—

(A) serve as the recipient of, and administering agent for, any grant awarded to the State under this section;

(B) develop, implement, and oversee the State Digital Equity Plan for the State described in subsection (c);

(C) make subgrants to any of the entities described in clauses (i) through (xi) of subsection (c)(1)(D) that is located in the State in support of—

(i) the State Digital Equity Plan for the State; and

(ii) digital inclusion activities in the State generally; and

(D) serve as—

(i) an advocate for digital equity policies and digital inclusion activities; and

(ii) a repository of best practice materials regarding the policies and activities described in clause (i).

(2) ELIGIBLE ENTITIES.—Any of the following entities may serve as the administering entity for a State for the purposes of this section if the entity has demonstrated a capacity to administer the Program on a statewide level:

(A) The State.

(B) A political subdivision, agency, or instrumentality of the State.

(C) An Indian Tribe located in the State, a tribally designated entity located in the State, or a Native Hawaiian organization located in the State.

(c) STATE DIGITAL EQUITY PLAN.—

(1) DEVELOPMENT; CONTENTS.—A State that wishes to be awarded a grant under subsection (d) shall develop a State Digital Equity Plan for the State, which shall include—

(A) an identification of the barriers to digital equity faced by covered populations in the State;

(B) measurable objectives for documenting and promoting, among each group described in subparagraphs (A) through (H) of section 2(6) located in that State—

(i) the availability of, and affordability of access to, broadband service and technology needed for the use of broadband service;

(ii) public awareness of such availability and affordability and of subsidies available to increase such affordability (including subsidies available through the Lifeline program of the Commission), including objectives to—

(I) inform Medicaid enrollees and SNAP participants, and organizations that serve Medicaid enrollees and SNAP

participants, of potential eligibility for the Lifeline program; and

(II) provide Medicaid enrollees and SNAP participants with information about the Lifeline program, including—

(aa) how to apply for the Lifeline program; and

(bb) a description of the prohibition on more than one subscriber in each household receiving a service provided under the Lifeline program;

(iii) the online accessibility and inclusivity of public resources and services;

(iv) digital literacy;

(v) awareness of, and the use of, measures to secure the online privacy of, and cybersecurity with respect to, an individual; and

(vi) the availability and affordability of consumer devices and technical support for those devices;

(C) an assessment of how the objectives described in subparagraph (B) will impact and interact with the State's—

(i) economic and workforce development goals, plans, and outcomes;

(ii) educational outcomes;

(iii) health outcomes;

(iv) civic and social engagement; and

(v) delivery of other essential services;

(D) in order to achieve the objectives described in subparagraph (B), a description of how the State plans to

collaborate with key stakeholders in the State, which may include—

- (i) anchor institutions;
- (ii) county and municipal governments;
- (iii) local educational agencies;
- (iv) where applicable, Indian Tribes, tribally designated entities, or Native Hawaiian organizations;
- (v) nonprofit organizations;
- (vi) organizations that represent—
 - (I) individuals with disabilities, including organizations that represent children with disabilities;
 - (II) aging individuals;
 - (III) individuals with a language barrier, including individuals who—
 - (aa) are English learners; or
 - (bb) have low levels of literacy;
 - (IV) veterans;
 - (V) individuals residing in rural areas; and
 - (VI) incarcerated individuals in that State, other than individuals who are incarcerated in a Federal correctional facility (including a private facility operated under contract with the Federal Government);
- (vii) civil rights organizations;
- (viii) entities that carry out workforce development programs;

(ix) agencies of the State that are responsible for administering or supervising adult education and literacy activities in the State;

(x) public housing agencies whose jurisdictions are located in the State; and

(xi) a consortium of any of the entities described in clauses (i) through (x); and

(E) a list of organizations with which the administering entity for the State collaborated in developing and implementing the Plan.

(2) PUBLIC AVAILABILITY.—

(A) IN GENERAL.—The administering entity for a State shall make the State Digital Equity Plan of the State available for public comment for a period of not less than 30 days before the date on which the State submits an application to the Assistant Secretary under subsection (d)(2).

(B) CONSIDERATION OF COMMENTS RECEIVED.—The administering entity for a State shall, with respect to an application submitted to the Assistant Secretary under subsection (d)(2)—

(i) before submitting the application—

(I) consider all comments received during the comment period described in subparagraph (A) with respect to the application (referred to in this subparagraph as the “comment period”); and

(II) make any changes to the plan that the administering entity determines to be appropriate; and

(ii) when submitting the application—

(I) describe any changes pursued by the administering entity in response to comments received during the comment period; and

(II) include a written response to each comment received during the comment period.

(3) PLANNING GRANTS.—

(A) IN GENERAL.—Beginning in the first fiscal year that begins after the date of the enactment of this Act, the Assistant Secretary shall, in accordance with the requirements of this paragraph, award planning grants to States for the purpose of developing the State Digital Equity Plans of those States under this subsection.

(B) ELIGIBILITY.—In order to be awarded a planning grant under this paragraph, a State—

(i) shall submit to the Assistant Secretary an application under subparagraph (C); and

(ii) may not have been awarded, at any time, a planning grant under this paragraph.

(C) APPLICATION.—A State that wishes to be awarded a planning grant under this paragraph shall, not later than 60 days after the date on which the notice of funding availability with respect to the grant is released, submit to the Assistant Secretary an application, in a format to be determined by the Assistant Secretary, that contains the following materials:

(i) A description of the entity selected to serve as the administering entity for the State, as described in subsection (b).

(ii) A certification from the State that, not later than 1 year after the date on which the Assistant Secretary awards the planning grant to the State, the administering entity for that State will submit to the Assistant Secretary a State Digital Equity Plan developed under this subsection, which will comply with the requirements of this subsection, including the requirements of paragraph (2).

(iii) The assurances required under subsection (e).

(D) AWARDS.—

(i) AMOUNT OF GRANT.—The amount of a planning grant awarded to an eligible State under this paragraph shall be determined according to the formula under subsection (d)(3)(A)(i).

(ii) DURATION.—

(I) IN GENERAL.—Except as provided in subclause (II), with respect to a planning grant awarded to an eligible State under this paragraph, the State shall expend the grant funds during the 1-year period beginning on the date on which the State is awarded the grant funds.

(II) EXCEPTION.—The Assistant Secretary may grant an extension of not longer than 180 days with respect to the requirement under subclause (I).

(iii) CHALLENGE MECHANISM.—The Assistant Secretary shall ensure that any eligible State to which a planning grant is awarded under this paragraph may appeal or otherwise challenge in a timely fashion the amount of the grant awarded to the State, as determined under clause (i).

(E) USE OF FUNDS.—An eligible State to which a planning grant is awarded under this paragraph shall, through the administering entity for that State, use the grant funds only for the following purposes:

(i) To develop the State Digital Equity Plan of the State under this subsection.

(ii) (I) Subject to subclause (II), to make subgrants to any of the entities described in clauses (i) through (xi) of paragraph (1)(D) to assist in the development of the State Digital Equity Plan of the State under this subsection.

(II) If the administering entity for a State makes a subgrant described in subclause (I), the administering entity shall, with respect to the subgrant, provide to the State the assurances required under subsection (e).

(d) STATE CAPACITY GRANTS.—

(1) IN GENERAL.—Beginning not later than 2 years after the date on which the Assistant Secretary begins awarding planning grants under subsection (c)(3), the Assistant Secretary shall each year award grants to eligible States to support—

(A) the implementation of the State Digital Equity Plans of those States; and

(B) digital inclusion activities in those States.

(2) APPLICATION.—A State that wishes to be awarded a grant under this subsection shall, not later than 60 days after the date on which the notice of funding availability with respect to the grant is released, submit to the Assistant Secretary an application, in a format to be determined by the Assistant Secretary, that contains the following materials:

(A) A description of the entity selected to serve as the administering entity for the State, as described in subsection (b).

(B) The State Digital Equity Plan of that State, as described in subsection (c).

(C) A certification that the State, acting through the administering entity for the State, shall—

(i) implement the State Digital Equity Plan of the State; and

(ii) make grants in a manner that is consistent with the aims of the Plan described in clause (i).

(D) The assurances required under subsection (e).

(E) In the case of a State to which the Assistant Secretary has previously awarded a grant under this subsection, any amendments to the State Digital Equity Plan of that State, as compared with the State Digital Equity Plan of the State previously submitted.

(3) AWARDS.—

(A) AMOUNT OF GRANT.—

(i) FORMULA.—Subject to clauses (ii), (iii), and (iv), the Assistant Secretary shall calculate the amount of a grant awarded to an eligible State under this subsection in accordance with the following criteria, using the best available data for all States for the fiscal year in which the grant is awarded:

(I) 50 percent of the total grant amount shall be based on the population of the eligible State in proportion to the total population of all eligible States.

(II) 25 percent of the total grant amount shall be based on the number of individuals in the eligible State who are members of covered populations in proportion to the total number of individuals in all eligible States who are members of covered populations.

(III) 25 percent of the total grant amount shall be based on the lack of availability of broadband service and lack of adoption of broadband service in the eligible State in proportion to the lack of availability of broadband service and lack of adoption of broadband service in all eligible States, which shall be determined according to data collected—

(aa) from the annual inquiry of the Commission conducted under section 706(b) of the Telecommunications Act of 1996 (47 U.S.C. 1302(b));

(bb) from the American Community Survey or, if necessary, other data collected by the Bureau of the Census;

(cc) from the Internet and Computer Use Supplement to the Current Population Survey of the Bureau of the Census;

(dd) by the Commission pursuant to the rules issued under section 802 of the Communications Act of 1934 (47 U.S.C. 642); and

(ee) from any other source that the Assistant Secretary, after appropriate notice and opportunity for public comment, determines to be appropriate.

(ii) **MINIMUM AWARD.**—The amount of a grant awarded to an eligible State under this subsection in a fiscal year shall be not less than 0.5 percent of the total amount made available to award grants to eligible States for that fiscal year.

(iii) **ADDITIONAL AMOUNTS.**—If, after awarding planning grants to States under subsection (c)(3) and capacity grants to eligible States under this subsection in a fiscal year, there are amounts remaining to carry out this section, the Assistant Secretary shall distribute those amounts—

(I) to eligible States to which the Assistant Secretary has awarded grants under this subsection for that fiscal year; and

(II) in accordance with the formula described in clause (i).

(iv) **DATA UNAVAILABLE.**—If, in a fiscal year, the Commonwealth of Puerto Rico (referred to in this clause as “Puerto Rico”) is an eligible State and specific data for Puerto Rico is unavailable for a factor described in subclause (I), (II), or (III) of clause (i), the Assistant Secretary shall use the median data point with respect to that factor among all eligible

States and assign it to Puerto Rico for the purposes of making any calculation under that clause for that fiscal year.

(B) DURATION.—With respect to a grant awarded to an eligible State under this subsection, the eligible State shall expend the grant funds during the 5-year period beginning on the date on which the eligible State is awarded the grant funds.

(C) CHALLENGE MECHANISM.—The Assistant Secretary shall ensure that any eligible State to which a grant is awarded under this subsection may appeal or otherwise challenge in a timely fashion the amount of the grant awarded to the State, as determined under subparagraph (A).

(D) USE OF FUNDS.—The administering entity for an eligible State to which a grant is awarded under this subsection shall use the grant amounts for the following purposes:

(i) (I) Subject to subclause (II), to update or maintain the State Digital Equity Plan of the State.

(II) An administering entity for an eligible State to which a grant is awarded under this subsection may use not more than 20 percent of the amount of the grant for the purpose described in subclause (I).

(ii) To implement the State Digital Equity Plan of the State.

(iii) (I) Subject to subclause (II), to award a grant to any entity that is described in section 1202(b) and is located in the eligible State in order to—

(aa) assist in the implementation of the State Digital Equity Plan of the State;

(bb) pursue digital inclusion activities in the State consistent with the State Digital Equity Plan of the State; and

(cc) report to the State regarding the digital inclusion activities of the entity.

(II) Before an administering entity for an eligible State may award a grant under subclause (I), the administering entity shall require the entity to which the grant is awarded to certify that—

(aa) the entity shall carry out the activities required under items (aa), (bb), and (cc) of that subclause;

(bb) the receipt of the grant shall not result in unjust enrichment of the entity; and

(cc) the entity shall cooperate with any evaluation—

(AA) of any program that relates to a grant awarded to the entity; and

(BB) that is carried out by or for the administering entity, the Assistant Secretary, or another Federal official.

(iv) (I) Subject to subclause (II), to evaluate the efficacy of the efforts funded by grants made under clause (iii).

(II) An administering entity for an eligible State to which a grant is awarded under this subsection may use not more than 5 percent of the amount of the grant for a purpose described in subclause (I).

(v) (I) Subject to subclause (II), for the administrative costs incurred in carrying out the activities described in clauses (i) through (iv).

(II) An administering entity for an eligible State to which a grant is awarded under this subsection may use not more than 3 percent of the amount of the grant for the purpose described in subclause (I).

(e) ASSURANCES.—When applying for a grant under this section, a State shall include in the application for that grant assurances that—

(1) if any of the entities described in clauses (i) through (xi) of subsection (c)(1)(D) or section 1202(b) is awarded grant funds under this section (referred to in this subsection as a “covered recipient”), provide that—

(A) the covered recipient shall use the grant funds in accordance with any applicable statute, regulation, or application procedure;

(B) the administering entity for that State shall adopt and use proper methods of administering any grant that the covered recipient is awarded, including by—

(i) enforcing any obligation imposed under law on any agency, institution, organization, or other entity that is responsible for carrying out the program to which the grant relates;

(ii) correcting any deficiency in the operation of a program to which the grant relates, as identified through an audit or another monitoring or evaluation procedure; and

(iii) adopting written procedures for the receipt and resolution of complaints alleging a violation of law with respect to a program to which the grant relates; and

(C) the administering entity for that State shall cooperate in carrying out any evaluation—

(i) of any program that relates to a grant awarded to the covered recipient; and

(ii) that is carried out by or for the Assistant Secretary or another Federal official;

(2) the administering entity for that State shall—

(A) use fiscal control and fund accounting procedures that ensure the proper disbursement of, and accounting for, any Federal funds that the State is awarded under this section;

(B) submit to the Assistant Secretary any reports that may be necessary to enable the Assistant Secretary to perform the duties of the Assistant Secretary under this section;

(C) maintain any records and provide any information to the Assistant Secretary, including those records, that the Assistant Secretary determines is necessary to enable the Assistant Secretary to perform the duties of the Assistant Secretary under this section; and

(D) with respect to any significant proposed change or amendment to the State Digital Equity Plan for the State, make the change or amendment available for public comment in accordance with subsection (c)(2); and

(3) the State, before submitting to the Assistant Secretary the State Digital Equity Plan of the State, has complied with the requirements of subsection (c)(2).

(f) TERMINATION OF GRANT.—

(1) IN GENERAL.—In addition to other authority under applicable law, the Assistant Secretary shall terminate a grant awarded to an eligible State under this section if, after notice to the State and opportunity for a hearing, the Assistant Secretary determines, and presents to the State a rationale and supporting information that clearly demonstrates, that—

(A) the grant funds are not contributing to the development or implementation of the State Digital Equity Plan of the State, as applicable;

(B) the State is not upholding assurances made by the State to the Assistant Secretary under subsection (e); or

(C) the grant is no longer necessary to achieve the original purpose for which the Assistant Secretary awarded the grant.

(2) REDISTRIBUTION.—If the Assistant Secretary, in a fiscal year, terminates a grant under paragraph (1) or under other authority under applicable law, the Assistant Secretary shall redistribute the unspent grant amounts—

(A) to eligible States to which the Assistant Secretary has awarded grants under subsection (d) for that fiscal year; and

(B) in accordance with the formula described in subsection (d)(3)(A)(i).

(g) REPORTING AND INFORMATION REQUIREMENTS; INTERNET DISCLOSURE.—
The Assistant Secretary—

(1) shall—

(A) require any entity to which a grant, including a subgrant, is awarded under this section to publicly report, for each year during the period described in subsection (c)(3)(D)(ii) or (d)(3)(B), as applicable, with respect to the grant, and in a format specified by the Assistant Secretary, on—

(i) the use of that grant by the entity;

(ii) the progress of the entity towards fulfilling the objectives for which the grant was awarded; and

(iii) the implementation of the State Digital Equity Plan of the State;

(B) establish appropriate mechanisms to ensure that any entity to which a grant, including a subgrant, is awarded under this section—

(i) uses the grant amounts in an appropriate manner; and

(ii) complies with all terms with respect to the use of the grant amounts; and

(C) create and maintain a fully searchable database, which shall be accessible on the internet at no cost to the public, that contains, at a minimum—

(i) the application of each State that has applied for a grant under this section;

(ii) the status of each application described in clause (i);

(iii) each report submitted by an entity under subparagraph (A);

(iv) a record of public comments received during the comment period described in subsection (c)(2)(A) regarding the State Digital Equity Plan of a State, as well as any written responses to or actions taken as a result of those comments; and

(v) any other information that the Assistant Secretary considers appropriate to ensure that the public has sufficient information to understand and monitor grants awarded under this section; and

(2) may establish additional reporting and information requirements for any recipient of a grant under this section.

(h) SUPPLEMENT NOT SUPPLANT.—A grant or subgrant awarded under this section shall supplement, not supplant, other Federal or State funds that have been made available to carry out activities described in this section.

(i) SET ASIDES.—From amounts made available in a fiscal year to carry out the Program, the Assistant Secretary shall reserve—

(1) not more than 5 percent for the implementation and administration of the Program, which shall include—

(A) providing technical support and assistance, including ensuring consistency in data reporting;

(B) providing assistance to—

(i) States, or administering entities for States, to prepare the applications of those States; and

(ii) administering entities with respect to grants awarded under this section;

(C) developing the report required under section 1203(a); and

(D) providing assistance specific to Indian Tribes, tribally designated entities, and Native Hawaiian organizations, including—

(i) conducting annual outreach to Indian Tribes and Native Hawaiian organizations on the availability of technical assistance for applying for or otherwise participating in the Program;

(ii) providing technical assistance at the request of any Indian Tribe, tribally designated entity, or Native Hawaiian organization that is applying for or participating in the Program in order to facilitate the fulfillment of any applicable requirements in subsections (c) and (d); and

(iii) providing additional technical assistance at the request of any Indian Tribe, tribally designated entity, or Native Hawaiian organization that is applying for or participating in the Program to improve the development or implementation of a Digital Equity plan, such as—

(I) assessing all Federal programs that are available to assist the Indian Tribe, tribally designated entity, or Native Hawaiian organization in meeting the goals of a Digital Equity plan;

(II) identifying all applicable Federal, State, and Tribal statutory provisions, regulations, policies, and procedures that the Assistant Secretary determines are necessary to adhere to for the deployment of broadband service;

(III) identifying obstacles to the deployment of broadband service under a Digital Equity plan, as well as potential solutions; or

(IV) identifying activities that may be necessary to the success of a Digital Equity plan, including digital literacy training, technical support, privacy and cybersecurity expertise, and other end-user technology needs; and

(2) not less than 5 percent to award grants directly to Indian Tribes, tribally designated entities, and Native Hawaiian organizations to allow those Tribes, entities, and organizations to carry out the activities described in this section.

(j) RULES.—The Assistant Secretary may prescribe such rules as may be necessary to carry out this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Assistant Secretary—

(1) for the award of grants under subsection (c)(3), \$60,000,000 for fiscal year 2022, and such amount is authorized to remain available through fiscal year 2026; and

(2) for the award of grants under subsection (d), \$625,000,000,000 for fiscal year 2022, and such amount is authorized to remain available through fiscal year 2026.

SEC. 1202. DIGITAL EQUITY COMPETITIVE GRANT PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 30 days after the date on which the Assistant Secretary begins awarding grants under section 1201(d), and not before that date, the Assistant Secretary shall establish in the Office the Digital Equity Competitive Grant Program (referred to in this section as the “Program”), the purpose of which is to award grants to support efforts to achieve digital equity, promote digital inclusion activities, and spur greater adoption of broadband service among covered populations.

(2) CONSULTATION; NO CONFLICT.—In establishing the Program under paragraph (1), the Assistant Secretary—

(A) may consult a State with respect to—

(i) the identification of groups described in subparagraphs (A) through (H) of section 2(6) located in that State; and

(ii) the allocation of grant funds within that State for projects in or affecting the State; and

(B) shall—

(i) consult with—

(I) the Secretary of Agriculture;

(II) the Secretary of Housing and Urban Development;

(III) the Secretary of Education;

(IV) the Secretary of Labor;

(V) the Secretary of Health and Human Services;

(VI) the Secretary of Veterans Affairs;

(VII) the Secretary of the Interior;

(VIII) the Assistant Secretary for Indian Affairs of the Department of the Interior;

(IX) the Commission;

(X) the Federal Trade Commission;

(XI) the Director of the Institute of Museum and Library Services;

(XII) the Administrator of the Small Business Administration;

(XIII) the Federal Cochairman of the Appalachian Regional Commission; and

(XIV) the head of any other Federal agency that the Assistant Secretary determines to be appropriate; and

(ii) ensure that the Program complements and enhances, and does not conflict with, other Federal broadband support programs and Universal Service Fund Programs.

(b) ELIGIBILITY.—The Assistant Secretary may award a grant under the Program to any of the following entities if the entity is not serving, and has not served, as the administering entity for a State under section 1201(b):

(1) A political subdivision, agency, or instrumentality of a State, including an agency of a State that is responsible for administering or supervising adult education and literacy activities in the State.

(2) An Indian Tribe, a tribally designated entity, or a Native Hawaiian organization.

(3) An entity that is—

(A) a not-for-profit entity; and

(B) not a school.

(4) An anchor institution.

(5) A local educational agency.

(6) An entity that carries out a workforce development program.

(7) A consortium of any of the entities described in paragraphs (1) through (6).

(8) A consortium of—

(A) an entity described in any of paragraphs (1) through (6); and

(B) an entity that—

(i) the Assistant Secretary, by rule, determines to be in the public interest; and

(ii) is not a school.

(c) APPLICATION.—An entity that wishes to be awarded a grant under the Program shall submit to the Assistant Secretary an application—

(1) at such time, in such form, and containing such information as the Assistant Secretary may require; and

(2) that—

(A) provides a detailed explanation of how the entity will use any grant amounts awarded under the Program to carry out the purposes of the Program in an efficient and expeditious manner;

(B) identifies the period in which the applicant will expend the grant funds awarded under the Program;

(C) includes—

(i) a justification for the amount of the grant that the applicant is requesting; and

(ii) for each fiscal year in which the applicant will expend the grant funds, a budget for the activities that the grant funds will support;

(D) demonstrates to the satisfaction of the Assistant Secretary that the entity—

(i) is capable of carrying out the project or function to which the application relates and the activities described in subsection (h)—

(I) in a competent manner; and

(II) in compliance with all applicable Federal, State, and local laws; and

(ii) if the applicant is an entity described in subsection (b)(1), will appropriate or otherwise unconditionally obligate from non-Federal sources funds that are necessary to meet the requirements of subsection (e);

(E) discloses to the Assistant Secretary the source and amount of other Federal, State, or outside funding sources from which the entity receives, or has applied for, funding for activities or projects to which the application relates; and

(F) provides—

(i) the assurances that are required under subsection (f); and

(ii) an assurance that the entity shall follow such additional procedures as the Assistant Secretary may require to ensure that grant funds are used and accounted for in an appropriate manner.

(d) AWARD OF GRANTS.—

(1) FACTORS CONSIDERED IN AWARD OF GRANTS.—In deciding whether to award a grant under the Program, the Assistant Secretary shall, to the extent practicable, consider—

(A) whether—

(i) an application will, if approved—

(I) increase access to broadband service and the adoption of broadband service among covered populations to be served by the applicant; and

(II) not result in unjust enrichment; and

(ii) the applicant is, or plans to subcontract with, a socially and economically disadvantaged small business concern;

(B) the comparative geographic diversity of the application in relation to other eligible applications; and

(C) the extent to which an application may duplicate or conflict with another program.

(2) USE OF FUNDS.—

(A) IN GENERAL.—In addition to the activities required under subparagraph (B), an entity to which the Assistant Secretary awards a grant under the Program shall use the grant amounts to support not less than one of the following activities:

(i) To develop and implement digital inclusion activities that benefit covered populations.

(ii) To facilitate the adoption of broadband service by covered populations, including by raising awareness of subsidies available to increase affordability of such service (including subsidies available through the Commission), in order to provide educational and employment opportunities to those populations.

(iii) To implement, consistent with the purposes of this subtitle—

(I) training programs for covered populations that cover basic, advanced, and applied skills; or

(II) other workforce development programs.

(iv) To make available equipment, instrumentation, networking capability, hardware and software, or digital network technology for broadband service to covered populations at low or no cost.

(v) To construct, upgrade, expend, or operate new or existing public access computing centers for covered populations through anchor institutions.

(vi) To undertake any other project or activity that the Assistant Secretary finds to be consistent with the purposes for which the Program is established.

(B) EVALUATION.—

(i) IN GENERAL.—An entity to which the Assistant Secretary awards a grant under the Program shall use not more than 10 percent of the grant amounts to measure and evaluate the activities supported with the grant amounts.

(ii) SUBMISSION TO ASSISTANT SECRETARY.—An entity to which the Assistant Secretary awards a grant under the Program shall submit to the Assistant Secretary each measurement and evaluation performed under clause (i)—

(I) in a manner specified by the Assistant Secretary;

(II) not later than 15 months after the date on which the entity is awarded the grant amounts; and

(III) annually after the submission described in subclause (II) for any year in which the entity expends grant amounts.

(C) ADMINISTRATIVE COSTS.—An entity to which the Assistant Secretary awards a grant under the Program may use not more than 10 percent of the amount of the grant for administrative costs in carrying out any of the activities described in subparagraph (A).

(D) TIME LIMITATIONS.—With respect to a grant awarded to an entity under the Program, the entity—

(i) except as provided in clause (ii), shall expend the grant amounts during the 4-year period beginning on the date on which the entity is awarded the grant amounts; and

(ii) during the 1-year period beginning on the date that is 4 years after the date on which the entity is awarded the grant

amounts, may continue to measure and evaluate the activities supported with the grant amounts, as required under subparagraph (B).

(E) CONTRACTING REQUIREMENTS.—All laborers and mechanics employed by contractors or subcontractors in the performance of construction, alteration, or repair work carried out, in whole or in part, with a grant under the Program shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards in this subparagraph, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

(F) NEUTRALITY REQUIREMENT.—An employer to which the Assistant Secretary awards a grant under the Program shall remain neutral with respect to the exercise of employees and labor organizations of the right to organize and bargain under the National Labor Relations Act (29 U.S.C. 151 et seq.).

(G) REFERRAL OF ALLEGED VIOLATIONS OF APPLICABLE FEDERAL LABOR AND EMPLOYMENT LAWS.—The Assistant Secretary shall refer any alleged violation of an applicable labor and employment law to the appropriate Federal agency for investigation and enforcement, any alleged violation of subparagraph (E) or (F) to the National Labor Relations Board for investigation and enforcement, utilizing all appropriate remedies up to and including debarment from the Program.

(e) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of any project for which the Assistant Secretary awards a grant under the Program may not exceed 90 percent.

(2) EXCEPTION.—The Assistant Secretary may grant a waiver with respect to the limitation on the Federal share of a project described in paragraph (1) if—

(A) the applicant with respect to the project petitions the Assistant Secretary for the waiver; and

(B) the Assistant Secretary determines that the petition described in subparagraph (A) demonstrates financial need.

(f) ASSURANCES.—When applying for a grant under this section, an entity shall include in the application for that grant assurances that the entity will—

(1) use any grant funds that the entity is awarded in accordance with any applicable statute, regulation, or application procedure;

(2) adopt and use proper methods of administering any grant that the entity is awarded, including by—

(A) enforcing any obligation imposed under law on any agency, institution, organization, or other entity that is responsible for carrying out a program to which the grant relates;

(B) correcting any deficiency in the operation of a program to which the grant relates, as identified through an audit or another monitoring or evaluation procedure; and

(C) adopting written procedures for the receipt and resolution of complaints alleging a violation of law with respect to a program to which the grant relates;

(3) cooperate with respect to any evaluation—

(A) of any program that relates to a grant awarded to the entity; and

(B) that is carried out by or for the Assistant Secretary or another Federal official;

(4) use fiscal control and fund accounting procedures that ensure the proper disbursement of, and accounting for, any Federal funds that the entity is awarded under the Program;

(5) submit to the Assistant Secretary any reports that may be necessary to enable the Assistant Secretary to perform the duties of the Assistant Secretary under the Program; and

(6) maintain any records and provide any information to the Assistant Secretary, including those records, that the Assistant Secretary determines is necessary to enable the Assistant Secretary to perform the duties of the Assistant Secretary under the Program.

(g) TERMINATION OF GRANT.—In addition to other authority under applicable law, the Assistant Secretary shall—

(1) terminate a grant awarded to an entity under this section if, after notice to the entity and opportunity for a hearing, the Assistant Secretary determines, and presents to the entity a rationale and supporting information that clearly demonstrates, that—

(A) the grant funds are not being used in a manner that is consistent with the application with respect to the grant submitted by the entity under subsection (c);

(B) the entity is not upholding assurances made by the entity to the Assistant Secretary under subsection (f); or

(C) the grant is no longer necessary to achieve the original purpose for which the Assistant Secretary awarded the grant; and

(2) with respect to any grant funds that the Assistant Secretary terminates under paragraph (1) or under other authority under applicable law, competitively award the grant funds to another applicant (if such an applicant exists), consistent with the requirements of this section.

(h) REPORTING AND INFORMATION REQUIREMENTS; INTERNET DISCLOSURE.—The Assistant Secretary—

(1) shall—

(A) require any entity to which the Assistant Secretary awards a grant under the Program to, for each year during the period described in clause (i) of subsection (d)(2)(D) with respect to the grant and during the period described in clause (ii) of such subsection with respect to the grant if the entity continues to measure and evaluate the activities supported with the grant amounts during such period, submit to the Assistant Secretary a report, in a format specified by the Assistant Secretary, regarding—

(i) the use by the entity of the grant amounts; and

(ii) the progress of the entity towards fulfilling the objectives for which the grant was awarded;

(B) establish mechanisms to ensure appropriate use of, and compliance with respect to all terms regarding, grant funds awarded under the Program;

(C) create and maintain a fully searchable database, which shall be accessible on the internet at no cost to the public, that contains, at a minimum—

(i) a list of each entity that has applied for a grant under the Program;

(ii) a description of each application described in clause (i), including the proposed purpose of each grant described in that clause;

(iii) the status of each application described in clause (i), including whether the Assistant Secretary has awarded a grant with respect to the application and, if so, the amount of the grant;

(iv) each report submitted by an entity under subparagraph (A); and

(v) any other information that the Assistant Secretary considers appropriate to ensure that the public has sufficient information to understand and monitor grants awarded under the Program; and

(D) ensure that any entity with respect to which an award is terminated under subsection (g) may, in a timely manner, appeal or otherwise challenge that termination; and

(2) may establish additional reporting and information requirements for any recipient of a grant under the Program.

(i) SUPPLEMENT NOT SUPPLANT.—A grant awarded to an entity under the Program shall supplement, not supplant, other Federal or State funds that have been made available to the entity to carry out activities described in this section.

(j) SET ASIDES.—From amounts made available in a fiscal year to carry out the Program, the Assistant Secretary shall reserve—

(1) not more than 5 percent for the implementation and administration of the Program, which shall include—

(A) providing technical support and assistance, including ensuring consistency in data reporting;

(B) providing assistance to entities to prepare the applications of those entities with respect to grants awarded under this section;

(C) developing the report required under section 1203(a); and

(D) conducting outreach to entities that may be eligible to be awarded a grant under the Program regarding opportunities to apply for such a grant; and

(2) not less than 5 percent to award grants directly to Indian Tribes, tribally designated entities, and Native Hawaiian organizations to allow those Tribes, entities, and organizations to carry out the activities described in this section.

(k) RULES.—The Assistant Secretary may prescribe such rules as may be necessary to carry out this section.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Assistant Secretary \$625,000,000 to carry out this section for fiscal year 2022, and such amount is authorized to remain available through fiscal year 2026.

SEC. 1203. POLICY RESEARCH, DATA COLLECTION, ANALYSIS AND MODELING, EVALUATION, AND DISSEMINATION.

(a) REPORTING REQUIREMENTS.—

(1) **IN GENERAL.**—Not later than 1 year after the date on which the Assistant Secretary begins awarding grants under section 1201(d), and annually thereafter, the Assistant Secretary shall—

(A) submit to the appropriate committees of Congress a report that documents, for the year covered by the report—

(i) the findings of each evaluation conducted under subparagraph (B);

(ii) a list of each grant awarded under each covered program, which shall include—

(I) the amount of each such grant;

(II) the recipient of each such grant; and

(III) the purpose for which each such grant was awarded;

(iii) any termination or modification of a grant awarded under the covered programs, which shall include a description of the subsequent usage of any funds to which such an action applies; and

(iv) each challenge made by an applicant for, or a recipient of, a grant under the covered programs and the outcome of each such challenge; and

(B) conduct evaluations of the activities carried out under the covered programs, which shall include an evaluation of—

(i) whether eligible States to which grants are awarded under the program established under section 1201 are—

(I) abiding by the assurances made by those States under subsection (e) of that section;

(II) meeting, or have met, the stated goals of the State Digital Equity Plans developed by the States under subsection (c) of that section;

(III) satisfying the requirements imposed by the Assistant Secretary on those States under subsection (g) of that section; and

(IV) in compliance with any other rules, requirements, or regulations promulgated by the Assistant Secretary in implementing that program; and

(ii) whether entities to which grants are awarded under the program established under section 1202 are—

(I) abiding by the assurances made by those entities under subsection (f) of that section;

(II) meeting, or have met, the stated goals of those entities with respect to the use of the grant amounts;

(III) satisfying the requirements imposed by the Assistant Secretary on those entities under subsection (h) of that section; and

(IV) in compliance with any other rules, requirements, or regulations promulgated by the Assistant Secretary in implementing that program.

(2) PUBLIC AVAILABILITY.—The Assistant Secretary shall make each report submitted under paragraph (1)(A) publicly available in an online format that—

(A) facilitates access and ease of use;

(B) is searchable; and

(C) is accessible—

(i) to individuals with disabilities; and

(ii) in languages other than English.

(b) **AUTHORITY TO CONTRACT AND ENTER INTO OTHER ARRANGEMENTS.**—The Assistant Secretary may award grants and enter into contracts, cooperative agreements, and other arrangements with Federal agencies, public and private organizations, and other entities with expertise that the Assistant Secretary determines appropriate in order to—

(1) evaluate the impact and efficacy of activities supported by grants awarded under the covered programs; and

(2) develop, catalog, disseminate, and promote the exchange of best practices, both with respect to and independent of the covered programs, in order to achieve digital equity.

(c) **CONSULTATION AND PUBLIC ENGAGEMENT.**—In carrying out subsection (a), and to further the objectives described in paragraphs (1) and (2) of subsection (b), the Assistant Secretary shall conduct ongoing collaboration and consult with—

(1) the Secretary of Agriculture;

(2) the Secretary of Housing and Urban Development;

(3) the Secretary of Education;

(4) the Secretary of Labor;

(5) the Secretary of Health and Human Services;

(6) the Secretary of Veterans Affairs;

(7) the Secretary of the Interior;

(8) the Assistant Secretary for Indian Affairs of the Department of the Interior;

(9) the Commission;

(10) the Federal Trade Commission;

- (11) the Director of the Institute of Museum and Library Services;
- (12) the Administrator of the Small Business Administration;
- (13) the Federal Cochairman of the Appalachian Regional Commission;
- (14) State agencies and governors of States (or equivalent officials);
- (15) entities serving as administering entities for States under section 1201(b);
- (16) national, State, Tribal, and local organizations that conduct digital inclusion activities, promote digital equity, or provide digital literacy services;
- (17) researchers, academics, and philanthropic organizations; and
- (18) other agencies, organizations (including international organizations), entities (including entities with expertise in the fields of data collection, analysis and modeling, and evaluation), and community stakeholders, as determined appropriate by the Assistant Secretary.

(d) **TECHNICAL SUPPORT AND ASSISTANCE.**—The Assistant Secretary shall provide technical support and assistance to potential applicants for the covered programs and entities awarded grants under the covered programs, to ensure consistency in data reporting and to meet the objectives of this section.

SEC. 1204. GENERAL PROVISIONS.

(a) **NONDISCRIMINATION.**—

(1) **IN GENERAL.**—No individual in the United States may, on the basis of actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, age, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that is funded in whole or in part with funds made available under this subtitle.

(2) ENFORCEMENT.—The Assistant Secretary shall effectuate paragraph (1) with respect to any program or activity described in that paragraph by issuing regulations and taking actions consistent with section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1).

(3) JUDICIAL REVIEW.—Judicial review of an action taken by the Assistant Secretary under paragraph (2) shall be available to the extent provided in section 603 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2).

(b) TECHNOLOGICAL NEUTRALITY.—The Assistant Secretary shall, to the extent practicable, carry out this subtitle in a technologically neutral manner.

(c) AUDIT AND OVERSIGHT.—There are authorized to be appropriated to the Office of Inspector General of the Department of Commerce for audits and oversight of funds made available to carry out this subtitle, \$1,000,000 for fiscal year 2022, and such amount is authorized to remain available through fiscal year 2026.

TITLE II—BROADBAND AFFORDABILITY AND PRICING TRANSPARENCY

subtitle A—Broadband Affordability

SEC. 2101. AUTHORIZATION FOR ADDITIONAL FUNDS FOR THE EMERGENCY BROADBAND CONNECTIVITY FUND.

There are authorized to be appropriated to the Emergency Broadband Connectivity Fund established under subsection (i) of section 904 of title IX of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260) \$6,000,000,000 for fiscal year 2022 for the purposes described in paragraph (3) of such subsection, and such amount is authorized to remain available through fiscal year 2026.

SEC. 2102. GRANTS TO STATES TO STRENGTHEN NATIONAL LIFELINE ELIGIBILITY VERIFIER.

(a) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, the Commission shall establish a program to provide a grant, from amounts appropriated under subsection (d), to each eligible entity for the purpose described under subsection (b).

(b) PURPOSE.—The Commission shall make a grant to each eligible entity for the purpose of establishing or amending a connection between the databases of such entity that contain information concerning the receipt by a household, or a member of a household, of benefits under a program administered by such entity (including any benefit provided under the supplemental nutrition assistance program under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.)) and the National Lifeline Eligibility Verifier so that the receipt by a household, or a member of a household, of benefits under such benefits program—

(1) is reflected in the National Lifeline Eligibility Verifier; and

(2) can be used to verify eligibility for—

(A) the Lifeline program established under subpart E, part 54, of title 47, Code of Federal Regulations (or any successor regulation); and

(B) the Emergency Broadband Benefit Program established under section 904(b) of title IX of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260).

(c) DISBURSEMENT OF GRANT FUNDS.—Not later than 60 days after the program established under subsection (a) is established, funds provided under each grant made under such subsection shall be disbursed to the entity receiving such grant.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$200,000,000 for fiscal year 2022 for the purposes of carrying out this section, and such amount is authorized to remain available through fiscal year 2026.

(e) ELIGIBLE ENTITIES.—In this section, the term “eligible entity” means an entity that—

(1) is a State or Tribal entity; and

(2) not later than 30 days after the date of the enactment of this Act, submits to the Commission an application containing such information as the Commission may require.

SEC. 2103. FEDERAL COORDINATION BETWEEN NATIONAL ELIGIBILITY VERIFIER AND NATIONAL ACCURACY CLEARINGHOUSE.

Notwithstanding section 11(x)(2)(C)(i) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(x)(2)(C)(i)), not later than 180 days after the date of the enactment of this Act, the Commission shall, in coordination with the Secretary of Agriculture, establish an automated connection, to the maximum extent practicable, between the National Lifeline Eligibility Verifier and the National Accuracy Clearinghouse established under section 11(x) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(x)) for the supplemental nutrition assistance program.

SEC. 2104. DEFINITIONS.

In this subtitle:

(1) **AUTOMATED CONNECTION.**—The term “automated connection” means a connection between two or more information systems where the manual input of information in one system leads to the automatic input of the same information into any other connected system.

(2) **NATIONAL LIFELINE ELIGIBILITY VERIFIER.**—The term “National Lifeline Eligibility Verifier” has the meaning given such term in section 54.400 of title 47, Code of Federal Regulations (or any successor regulation).

(3) **TRIBAL ENTITY.**—The term “Tribal entity” means any of the following:

(A) The governing body of any Indian or Alaska Native Tribe, band, nation, pueblo, village, community, component band, or component reservation, individually recognized (including parenthetically) in the list published most recently as of the date of enactment of this Act pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

(B) The Department of Hawaiian Home Lands.

subtitle B—Additional Authorization for Emergency Connectivity Fund

SEC. 2201. ADDITIONAL AUTHORIZATION FOR EMERGENCY CONNECTIVITY FUND.

There is authorized to be appropriated to the Emergency Connectivity Fund established under section 7402(c) of the American Rescue Plan Act of 2021 \$2,000,000,000 for fiscal year 2022 for the purposes described in such section, and such amount is authorized to remain available through fiscal year 2026.

subtitle C—Pricing Transparency

SEC. 2301. DEFINITIONS.

In this subtitle:

(1) **BROADBAND INTERNET ACCESS SERVICE.**—The term “broadband internet access service” has the meaning given the term in section 8.1(b) of title 47, Code of Federal Regulations, or any successor regulation.

(2) **FIXED WIRELESS BROADBAND.**—The term “fixed wireless broadband” means broadband internet access service that serves end users primarily at fixed endpoints through stationary equipment connected by the use of radio, such as by the use of unlicensed spectrum.

(3) **MOBILE BROADBAND.**—The term “mobile broadband”—

(A) means broadband internet access service that serves end users primarily using mobile stations;

(B) includes services that use smartphones or mobile network-enabled tablets as the primary endpoints for connection to the internet; and

(C) includes mobile satellite broadband internet access services.

(4) **PROVIDER.**—The term “provider” means a provider of fixed or mobile broadband internet access service.

(5) **SATELLITE BROADBAND.**—The term “satellite broadband” means broadband internet access service that serves end users primarily at fixed endpoints through stationary equipment connected by the use of orbital satellites.

(6) **TERRESTRIAL FIXED BROADBAND.**—The term “terrestrial fixed broadband” means broadband internet access service that serves end users primarily at fixed endpoints through stationary equipment connected by wired technology such as cable, DSL, and fiber.

SEC. 2302. BROADBAND TRANSPARENCY.

(a) RULES.—

(1) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, the Commission shall issue final rules that include a requirement for the annual collection by the Commission of data relating to the price and subscription rates of terrestrial fixed broadband, fixed wireless broadband, satellite broadband, and mobile broadband.

(2) **UPDATES.**—Not later than 90 days after the date on which rules are issued under paragraph (1), and when determined to be necessary by the Commission thereafter, the Commission shall revise such rules to verify the accuracy of data submitted pursuant to such rules.

(3) **REDUNDANCY AVOIDANCE.**—Nothing in this section shall be construed to require the Commission, in order to meet a requirement of this section, to duplicate an activity that the Commission is undertaking as of the date of the enactment of this Act, if the Commission refers to such activity in the rules issued under paragraph (1), such activity meets the requirements of this section, and the Commission discloses such activity to the public.

(b) **CONTENT OF RULES.**—The rules issued by the Commission under subsection (a)(1) shall require the Commission to collect from each provider of terrestrial fixed broadband, fixed wireless broadband, mobile broadband, or satellite broadband, data that includes—

(1) either the weighted average of the monthly prices charged to subscribed households within each census block for each distinct broadband internet access service plan or tier of standalone broadband internet access service, including mandatory equipment charges, usage-

based fees, and fees for early termination of required contracts, or the monthly price charged to each subscribed household, including such charges and fees;

(2) either the mean monthly price within the duration of subscription contracts offered within each census block for each distinct broadband internet access service plan or tier of standalone broadband internet access service, including mandatory equipment charges, usage-based fees, and fees for early termination of required contracts, or the mean monthly price within the duration of subscription contracts offered to each household, including such charges and fees;

(3) either the subscription rate within each census block for each distinct broadband internet access service plan or tier of standalone broadband internet access service, or information regarding the subscription status of each household to which a subscription is offered;

(4) data necessary to demonstrate the actual price paid by subscribers of broadband internet access service at each tier for such service in a manner that—

(A) takes into account any discounts (or similar price concessions); and

(B) identifies any additional taxes and fees (including for the use of equipment related to the use of a subscription for such service), any monthly data usage limitation at the stated price, and the extent to which the price of the service reflects inclusion within a product bundle; and

(5) data necessary to assess the resiliency of the broadband internet access service network in the event of a natural disaster or emergency.

(c) TECHNICAL ASSISTANCE.—The Commission shall provide technical assistance to small providers (as defined by the Commission) of broadband internet access service, to ensure such providers can fulfill the requirements of this section.

SEC. 2303. DISTRIBUTION OF DATA.

(a) AVAILABILITY OF DATA.—Subject to subsection (b), the Commission shall make all data relating to broadband internet access service collected under rules required by this subtitle available in a commonly used electronic format to—

(1) other Federal agencies, including the National Telecommunications and Information Administration, to assist that agency in conducting the study required by subsection (g) of section 903 of division FF of the Consolidated Appropriations Act, 2021 (Public Law 116–260), as added by this Act;

(2) a broadband office, public utility commission, broadband mapping program, or other broadband program of a State, in the case of data pertaining to the needs of that State;

(3) a unit of local government, in the case of data pertaining to the needs of that locality; and

(4) an individual or organization conducting research for noncommercial purposes or public interest purposes.

(b) PROTECTION OF DATA.—

(1) IN GENERAL.—The Commission may not share any data described in subsection (a) with an entity or individual described in that subsection unless the Commission has determined that the receiving entity or individual has the capability and intent to protect any personally identifiable information contained in the data.

(2) DETERMINATION OF PERSONALLY IDENTIFIABLE INFORMATION.—The Commission—

(A) shall define the term “personally identifiable information”, for purposes of paragraph (1), through notice and comment rulemaking; and

(B) may not share any data under subsection (a) before completing the rulemaking under subparagraph (A).

(c) BALANCING ACCESS AND PROTECTION.—If the Commission is unable to determine under subsection (b)(1) that an entity or individual requesting access to data under subsection (a) has the capability to protect personally identifiable

information contained in the data, the Commission shall make as much of the data available as possible in a format that does not compromise personally identifiable information, through methods such as anonymization.

SEC. 2304. COORDINATION WITH CERTAIN OTHER FEDERAL AGENCIES.

Section 804(b)(2) of the Communications Act of 1934 (47 U.S.C. 644(b)(2)), as added by the Broadband DATA Act (Public Law 116–130), is amended—

(1) in subparagraph (A)(ii), by striking the semicolon at the end and inserting “; and”;

(2) by amending subparagraph (B) to read as follows:

“(B) coordinate with the Postmaster General, the heads of other Federal agencies that operate delivery fleet vehicles, and the Director of the Bureau of the Census for assistance with data collection whenever coordination could feasibly yield more specific geographic data.”; and

(3) by striking subparagraph (C).

SEC. 2305. ADOPTION OF CONSUMER BROADBAND LABELS.

(a) FINAL RULE.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate regulations to promote and incentivize the widespread adoption of broadband consumer labels, as described in the Public Notice of the Commission issued on April 4, 2016 (DA 16–357), to disclose to consumers information regarding broadband internet access service plans.

(b) HEARINGS.—In issuing the final rule under subsection (a), the Commission shall conduct a series of public hearings to assess, at the time of the proceeding—

(1) how consumers evaluate broadband internet access service plans; and

(2) whether disclosures to consumers of information regarding broadband internet access service plans, including those required under section 8.1 of title 47, Code of Federal Regulations, are available, effective, and sufficient.

SEC. 2306. GAO REPORT.

Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Energy and Commerce of the House of Representatives, the Committee on Agriculture of the House of Representatives, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Environment and Public Works of the Senate, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that evaluates the process used by the Commission for establishing, reviewing, and updating the upload and download broadband internet access service speed thresholds, including—

(1) how the Commission reviews and updates broadband internet access speed thresholds;

(2) whether the Commission considers future broadband internet access service speed needs when establishing broadband internet access service speed thresholds, including whether the Commission considers the need, or the anticipated need, for higher upload or download broadband internet access service speeds in the five-year period and the ten-year period after the date on which a broadband internet access service speed threshold is to be established; and

(3) how the Commission considers the impacts of changing uses of the internet in establishing, reviewing, or updating broadband internet access service speed thresholds, including—

(A) the proliferation of internet-based business;

(B) working remotely and running a business from home;

(C) video teleconferencing;

(D) distance learning;

(E) in-house web hosting; and

(F) cloud data storage.

TITLE III—BROADBAND ACCESS

subtitle A—Expansion of Broadband Access

SEC. 3101. EXPANSION OF BROADBAND ACCESS IN UNSERVED AREAS AND AREAS WITH LOW-TIER OR MID-TIER SERVICE.

(a) IN GENERAL.—Title VII of the Communications Act of 1934 (47 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

“SEC. 723. EXPANSION OF BROADBAND ACCESS IN UNSERVED AREAS AND AREAS WITH LOW-TIER OR MID-TIER SERVICE.

“(a) PROGRAM ESTABLISHED.—Not later than 180 days after the date of the enactment of this section, the Commission, in consultation with the Assistant Secretary, shall establish a program to expand access to broadband service for unserved areas, areas with low-tier service, areas with mid-tier service, and unserved anchor institutions in accordance with the requirements of this section that—

“(1) is separate from any universal service program established pursuant to section 254; and

“(2) does not require funding recipients to be designated as eligible telecommunications carriers under section 214(e).

“(b) USE OF PROGRAM FUNDS.—

“(1) EXPANDING ACCESS TO BROADBAND SERVICE THROUGH NATIONAL SYSTEM OF COMPETITIVE BIDDING.—Not later than 18 months after the date of the enactment of this section, the Commission shall award 75 percent of the amounts appropriated under subsection (g) through national systems of competitive bidding to funding recipients only to expand access to broadband service in unserved areas and areas with low-tier service.

“(2) EXPANDING ACCESS TO BROADBAND SERVICE THROUGH STATES.—

“(A) DISTRIBUTION OF FUNDS TO STATES.—Not later than 255 days after the date of the enactment of this section, the Commission shall distribute 25 percent of the amounts appropriated under subsection (g) among the States, as follows:

“(i) \$100,000,000 shall be distributed to each of the 50 States, the District of Columbia, and Puerto Rico.

“(ii) \$100,000,000 shall be allocated equally among and distributed to the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

“(iii) The remainder shall be allocated among and distributed to the entities described in clause (i), in proportion to the population of each such entity.

“(B) PUBLIC NOTICE.—Not later than 195 days after the date of the enactment of this section, the Commission shall issue a public notice informing each State and the public of the amounts to be distributed under this paragraph. The notice shall include—

“(i) the manner in which a State shall inform the Commission of that State’s acceptance or acceptance in part of the amounts to be distributed under this paragraph;

“(ii) the date (which is 30 days after the date on which the public notice is issued) by which such acceptance or acceptance in part is due; and

“(iii) the requirements as set forth under this section and as may be further prescribed by the Commission.

“(C) ACCEPTANCE BY STATES.—Not later than 30 days after the date on which a public notice is issued under subparagraph (B), each State accepting amounts to be distributed under this paragraph shall inform the Commission of the acceptance or acceptance in part by the State of the amounts to be distributed under this paragraph in the manner described by the Commission in the public notice.

“(D) REQUIREMENTS FOR STATE RECEIPT OF AMOUNTS DISTRIBUTED.—Each State accepting amounts distributed under this paragraph—

“(i) shall only award such amounts through statewide systems of competitive bidding, in the manner prescribed by the State but subject to the requirements as set forth under this section and as may be further prescribed by the Commission;

“(ii) shall make such awards only—

“(I) to funding recipients to expand access to broadband service in unserved areas and areas with low-tier service;

“(II) to funding recipients to expand access to broadband service to unserved anchor institutions; or

“(III) to funding recipients to expand access to broadband service in areas with mid-tier service, but only if a State does not have, or no longer has, any unserved areas or areas with low-tier service;

“(iii) shall conduct separate systems of competitive bidding for awards made to unserved anchor institutions under clause (ii)(II), if a State awards any amounts distributed under this paragraph to unserved anchor institutions;

“(iv) shall return any unused portion of amounts distributed under this paragraph to the Commission within 10 years after the date of the enactment of this section and shall submit a certification to the Commission before receiving such amounts that the State will return such amounts; and

“(v) may not use more than 5 percent of the amounts distributed under this paragraph to administer a system or systems of competitive bidding authorized by this paragraph.

“(3) FEDERAL AND STATE COORDINATION.—The Commission, in consultation with the Office of Internet Connectivity and Growth, shall establish processes through the rulemaking under subsection (e) to—

“(A) permit a State to elect for the Commission to conduct statewide systems of competitive bidding on behalf of such State as

part of, or in coordination with, national systems of competitive bidding;

“(B) assist States in conducting statewide systems of competitive bidding;

“(C) ensure that program funds awarded by the Commission and program funds awarded by the States are not used in the same areas; and

“(D) ensure that program funds and funds awarded through other Federal programs to expand broadband service with a download speed of at least 100 megabits per second, an upload speed of at least 100 megabits per second, and latency that is sufficiently low to allow multiple, simultaneous, real-time, interactive applications, are not used in the same areas.

“(c) PROGRAM REQUIREMENTS.—

“(1) TECHNOLOGY NEUTRALITY REQUIRED.—The entity administering a system of competitive bidding (either a State or the Commission) in making awards may not favor a project using any particular technology.

“(2) GIGABIT PERFORMANCE FUNDING.—The Commission shall reserve 20 percent of the amounts to be awarded by the Commission under subsection (b)(1), and each State shall reserve 20 percent of the amounts distributed to such State under subsection (b)(2), for bidders committing (with respect to any particular project by such a bidder) to offer, not later than the date that is 4 years after the date on which funding is provided under this section for such project—

“(A) broadband service with a download speed of at least 1 gigabit per second, an upload speed of at least 1 gigabit per second, and latency that is sufficiently low to allow multiple, simultaneous, real-time, interactive applications; or

“(B) in the case of a project to provide broadband service to an unserved anchor institution, broadband service with a download speed of at least 10 gigabits per second per 1,000 users, an upload

speed of at least 10 gigabits per second per 1,000 users, and latency that is sufficiently low to allow multiple, simultaneous, real-time, interactive applications.

“(3) SYSTEM OF COMPETITIVE BIDDING PROCESS.—The entity administering a system of competitive bidding (either a State or the Commission) shall structure the system of competitive bidding process to—

“(A) first hold a system of competitive bidding only for bidders committing (with respect to any particular project by such a bidder) to offer, not later than the date that is 4 years after the date on which funding is provided under this section for such project—

“(i) broadband service with a download speed of at least 1 gigabit per second, an upload speed of at least 1 gigabit per second, and latency that is sufficiently low to allow multiple, simultaneous, real-time, interactive applications; or

“(ii) in the case of a project to provide broadband service to an unserved anchor institution, broadband service with a download speed of at least 10 gigabits per second per 1,000 users, an upload speed of at least 10 gigabits per second per 1,000 users, and latency that is sufficiently low to allow multiple, simultaneous, real-time, interactive applications; and

“(B) after holding the system of competitive bidding required by subparagraph (A), hold one or more systems of competitive bidding, in areas not receiving awards under subparagraph (A), to award funds for projects in areas that are estimated to remain unserved areas, areas with low-tier service, or (to the extent permitted under this section) areas with mid-tier service, or (to the extent permitted under this section) for projects to offer broadband service to anchor institutions that are estimated to remain unserved anchor institutions, after the completion of the projects for which funding is awarded under the system of competitive bidding required by subparagraph (A) or any previous system of competitive bidding under this subparagraph.

“(4) FUNDS PRIORITY PREFERENCE.—There shall be a preference in a system of competitive bidding for projects that would expand access to broadband service in areas where at least 90 percent of the population has no access to broadband service or does not have access to broadband service offered with a download speed of at least 25 megabits per second, with an upload speed of at least 3 megabits per second, and with latency that is sufficiently low to allow multiple, simultaneous, real-time, interactive applications. Such projects shall be given priority in such system of competitive bidding over all other projects, regardless of how many preferences under paragraph (5) for which such other projects qualify.

“(5) FUNDS PREFERENCE.—There shall be a preference in a system of competitive bidding, as determined by the entity administering the system of competitive bidding (either a State or the Commission), for any of the following projects:

“(A) Projects with at least 20 percent matching funds from non-Federal sources.

“(B) Projects that would expand access to broadband service on Tribal lands, as defined by the Commission.

“(C) Projects that would provide broadband service with higher speeds than those specified in subsection (d)(2), except in the case of funds awarded under subparagraph (A) of paragraph (3).

“(D) Projects that would expand access to broadband service in advance of the time specified in subsection (e)(5), except in the case of funds awarded under subparagraph (A) of paragraph (3).

“(E) Projects that would expand access to broadband service to persistent poverty counties or high-poverty areas at subsidized rates.

“(F) Projects that, at least until the date that is 10 years after the date of the enactment of this section, would provide broadband service with comparable speeds to those provided in areas that, on the day before such date of enactment, were not unserved areas,

areas with low-tier service, or areas with mid-tier service, with minimal future investment.

“(G) Projects with support from the local community, demonstrated by at least one letter of support from local elected officials in the community.

“(H) Projects that would provide for the deployment of open-access broadband service networks.

“(6) UNSERVED AREAS AND AREAS WITH LOW-TIER OR MID-TIER SERVICE.—In determining whether an area is an unserved area, an area with low-tier service, or an area with mid-tier service or whether an anchor institution is an unserved anchor institution for any system of competitive bidding authorized under this section, the Commission shall implement the following requirements through the rulemaking described in subsection (e):

“(A) DATA FOR INITIAL DETERMINATION.—To make an initial determination as to whether an area is an unserved area, an area with low-tier service, or an area with mid-tier service or whether an anchor institution is an unserved anchor institution, the Commission shall—

“(i) use the most accurate and granular data on the map created by the Commission under section 802(c)(1)(B);

“(ii) refine the data described in clause (i) by using—

“(I) other data on access to broadband service obtained or purchased by the Commission;

“(II) other publicly available data or information on access to broadband service; and

“(III) other publicly available data or information on State broadband service deployment programs; and

“(iii) not determine an area is not an unserved area, an area with low-tier service, or an area with mid-tier service, on the basis that one location within such area does not meet the

definition of an unserved area, an area with low-tier service, or an area with mid-tier service.

“(B) INITIAL DETERMINATION.—The Commission shall make an initial determination of the areas that are unserved areas, areas with low-tier service, and areas with mid-tier service and which anchor institutions are unserved anchor institutions not later than 270 days after the date of the enactment of this section.

“(C) CHALLENGE OF DETERMINATION.—

“(i) IN GENERAL.—The Commission shall provide for a process for challenging any initial determination regarding whether an area is an unserved area, an area with low-tier service, or an area with mid-tier service or whether an anchor institution is an unserved anchor institution that, at a minimum, provides not less than 45 days for a person to voluntarily submit information concerning—

“(I) the broadband service offered in the area, or a commitment to offer broadband service in the area that is subject to legal sanction if not performed; or

“(II) the broadband service offered to the anchor institution.

“(ii) STREAMLINED PROCESS.—The Commission shall ensure that such process is sufficiently streamlined such that a reasonably prudent person may easily participate to challenge such initial determination with little burden on such person.

“(D) FINAL DETERMINATION.—The Commission shall make a final determination of the areas that are unserved areas, areas with low-tier service, or areas with mid-tier service and which anchor institutions are unserved anchor institutions within 1 year after the date of the enactment of this section.

“(7) NOTICE, TRANSPARENCY, ACCOUNTABILITY, AND OVERSIGHT REQUIRED.—The program shall contain sufficient

notice, transparency, accountability, and oversight measures to provide the public with notice of the assistance provided under this section, and to deter waste, fraud, and abuse of program funds.

“(8) COMPETENCE.—

“(A) STANDARDS.—The Commission shall establish, through the rulemaking described in subsection (e), objective standards to determine that each provider of broadband service seeking to participate in a system of competitive bidding—

“(i) is capable of carrying out the project in a competent manner in compliance with all applicable Federal, State, and local laws;

“(ii) has the financial capacity to meet the buildout obligations of the project and requirements as set forth under this section and as may be further prescribed by the Commission; and

“(iii) has the technical and operational capability to provide broadband services in the manner contemplated by the provider’s bid in the system of competitive bidding, including a detailed consideration of the provider’s prior performance in delivering services as contemplated in the bid and the capabilities of the provider’s proposed network to deliver the contemplated services in the area in question.

“(B) DETERMINATIONS REGARDING PROVIDERS.—An entity administering a system of competitive bidding (either a State or the Commission) may not permit a provider of broadband service to participate in the system of competitive bidding unless the entity first determines, after notice and an opportunity for public comment, that the provider meets the standards established under subparagraph (A).

“(9) CONTRACTING REQUIREMENTS.—All laborers and mechanics employed by contractors or subcontractors in the performance of construction, alteration, or repair work carried out, in whole or in part, with assistance made available under this section shall

be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards in this paragraph, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

“(10) RULE OF CONSTRUCTION REGARDING ENVIRONMENTAL LAWS.—Nothing in this section shall be construed to affect—

“(A) the Clean Air Act (42 U.S.C. 7401 et seq.);

“(B) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.; commonly referred to as the ‘Clean Water Act’);

“(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(D) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

“(E) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.; commonly referred to as the ‘Resource Conservation and Recovery Act’); or

“(F) any State or local law that is similar to a law listed in subparagraphs (A) through (E).

“(11) REFERRAL OF ALLEGED VIOLATIONS OF APPLICABLE FEDERAL LABOR AND EMPLOYMENT LAWS.—The Commission shall refer any alleged violation of an applicable labor and employment law to the appropriate Federal agency for investigation and enforcement, and any alleged violation of paragraph (9) or (12) to the National Labor Relations Board for investigation and enforcement, utilizing all appropriate remedies up to and including debarment from the program.

“(12) LABOR ORGANIZATION.—

“(A) IN GENERAL.—Notwithstanding the National Labor Relations Act (29 U.S.C. 151 et seq.), subparagraphs (B) through (F) shall apply with respect to any funding recipient who is an employer and any labor organization who represents employees of a funding recipient.

“(B) NEUTRALITY REQUIREMENT.—An employer shall remain neutral with respect to the exercise of employees and labor organizations of the right to organize and bargain under the National Labor Relations Act (29 U.S.C. 151 et seq.).

“(C) COMMENCEMENT OF COLLECTIVE BARGAINING.—Not later than 10 days after receiving a written request for collective bargaining from a labor organization that has been newly recognized or certified as a representative under section 9(a) of the National Labor Relations Act (29 U.S.C. 159(a)), or within such further period as the parties agree upon, the parties shall meet and commence to bargain collectively and shall make every reasonable effort to conclude and sign a collective bargaining agreement.

“(D) MEDIATION AND CONCILIATION FOR FAILURE TO REACH A COLLECTIVE BARGAINING AGREEMENT.—

“(i) IN GENERAL.—If the parties have failed to reach an agreement before the date that is 90 days after the date on which bargaining is commenced under subparagraph (C), or any later date agreed upon by both parties, either party may notify the Federal Mediation and Conciliation Service of the existence of a dispute and request mediation.

“(ii) FEDERAL MEDIATION AND CONCILIATION SERVICE.—Whenever a request is received under clause (i), the Director of the Federal Mediation and Conciliation Service shall promptly communicate with the parties and use best efforts, by mediation and conciliation, to bring them to agreement.

“(E) TRIPARTITE ARBITRATION PANEL.—

“(i) IN GENERAL.—If the Federal Mediation and Conciliation Service is not able to bring the parties to agreement by mediation or conciliation before the date that is 30 days after the date on which such mediation or conciliation is commenced, or any later date agreed upon by both parties, the Service shall refer the dispute to a tripartite arbitration panel established in accordance with such regulations as may be prescribed by the Service, with one member selected by the labor organization, one member selected by the employer, and one neutral member mutually agreed to by the parties.

“(ii) DISPUTE SETTLEMENT.—A majority of the tripartite arbitration panel shall render a decision settling the dispute and such decision shall be binding upon the parties for a period of two years, unless amended during such period by written consent of the parties. Such decision shall be based on—

“(I) the employer’s financial status and prospects;

“(II) the size and type of the employer’s operations and business;

“(III) the employees’ cost of living;

“(IV) the employees’ ability to sustain themselves, their families, and their dependents on the wages and benefits they earn from the employer; and

“(V) the wages and benefits that other employers in the same business provide their employees.

“(F) PROHIBITION ON SUBCONTRACTING FOR CERTAIN PURPOSES.—A funding recipient may not engage in subcontracting for the purpose of circumventing the terms of a collective bargaining agreement with respect to wages, benefits, or working conditions.

“(G) PARTIES DEFINED.—In this paragraph, the term ‘parties’ means a labor organization that is newly recognized or

certified as a representative under section 9(a) of the National Labor Relations Act (29 U.S.C. 159(a)) and the employer of the employees represented by such organization.

“(d) PROJECT REQUIREMENTS.—Any project funded through the program shall meet the following requirements:

“(1) The project shall adhere to quality-of-service standards as established by the Commission.

“(2) Except as provided in paragraphs (2) and (3) of subsection (c), the project shall offer broadband service with a download speed of at least 100 megabits per second, an upload speed of at least 100 megabits per second, and latency that is sufficiently low to allow multiple, simultaneous, real-time, interactive applications.

“(3) The project shall offer broadband service at prices that are comparable to, or lower than, the prices charged for comparable levels of service in areas that were not unserved areas, areas with low-tier service, or areas with mid-tier service on the day before the date of the enactment of this section.

“(4) For any project that involves laying fiber-optic cables along a roadway, the project shall include interspersed conduit access points at regular and short intervals.

“(5) The project shall incorporate prudent cybersecurity and supply chain risk management practices, as specified by the Commission through the rulemaking described in subsection (e), in consultation with the Director of the National Institute of Standards and Technology and the Assistant Secretary.

“(6) The project shall incorporate best practices, as defined by the Commission, for ensuring reliability and resiliency of the network during disasters.

“(7) Any funding recipient must agree to have the project meet the requirements established under section 224, as if the project were classified as a ‘utility’ under such section. The preceding sentence shall not apply to those entities or persons excluded from the definition of

the term ‘utility’ by the second sentence of subsection (a)(1) of such section.

“(8) The project shall offer an affordable option for a broadband service plan under which broadband service is provided—

“(A) with a download speed of at least 50 megabits per second;

“(B) with an upload speed of at least 50 megabits per second;
and

“(C) with latency that is sufficiently low to allow multiple, simultaneous, real-time, interactive applications.

“(e) RULEMAKING AND DISTRIBUTION AND AWARD OF FUNDS.—Not later than 180 days after the date of the enactment of this section, the Commission, in consultation with the Assistant Secretary, shall promulgate rules—

“(1) that implement the requirements of this section, as appropriate;

“(2) that establish the design of and rules for the national systems of competitive bidding;

“(3) that establish notice requirements for all systems of competitive bidding authorized under this section that, at a minimum, provide the public with notice of—

“(A) the initial determination of which areas are unserved areas, areas with low-tier service, or areas with mid-tier service;

“(B) the final determination of which areas are unserved areas, areas with low-tier service, or areas with mid-tier service after the process for challenging the initial determination has concluded;

“(C) which entities have applied to bid for funding; and

“(D) the results of any system of competitive bidding, including identifying the funding recipients, which areas each project will serve, the nature of the service that will be provided by the project in each of those areas, and how much funding the funding recipients will receive in each of those areas;

“(4) that establish broadband service buildout milestones and periodic certification by funding recipients to ensure that the broadband service buildout milestones for all systems of competitive bidding authorized under this section will be met;

“(5) that, except as provided in paragraphs (2) and (3) of subsection (c), establish a maximum buildout timeframe of three years beginning on the date on which funding is provided under this section for a project;

“(6) that establish periodic reporting requirements for funding recipients and that identify, at a minimum, the nature of the service provided in each area for any system of competitive bidding authorized under this section;

“(7) that establish standard penalties for the noncompliance of funding recipients or projects with the requirements as set forth under this section and as may be further prescribed by the Commission for any system of competitive bidding authorized under this section;

“(8) that establish procedures for recovery of funds, in whole or in part, from funding recipients in the event of the default or noncompliance of the funding recipient or project with the requirements established under this section for any system of competitive bidding authorized under this section; and

“(9) that establish mechanisms to reduce waste, fraud, and abuse within the program for any system of competitive bidding authorized under this section.

“(f) REPORTS REQUIRED.—

“(1) INSPECTOR GENERAL AND COMPTROLLER
GENERAL REPORT.—Not later than June 30 and December 31 of each year following the awarding of the first funds under the program, the Inspector General of the Commission and the Comptroller General of the United States shall submit to the Committees on Energy and Commerce of the House of Representatives and Commerce, Science, and Transportation of the Senate a report for the previous 6 months that

reviews the program. Such report shall include any recommendations to address waste, fraud, and abuse.

“(2) STATE REPORTS.—Any State that receives funds under the program shall submit an annual report to the Commission on how such funds were spent, along with a certification of compliance with the requirements as set forth under this section and as may be further prescribed by the Commission, including a description of each service provided and the number of individuals to whom the service was provided.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Commission \$79,500,000,000 for fiscal year 2022 to carry out the program, and such amount is authorized to remain available through fiscal year 2026.

“(h) DEFINITIONS.—In this section:

“(1) AFFORDABLE OPTION.—The term ‘affordable option’ means, with respect to a broadband service plan, that broadband service is provided under such plan at a rate that is determined by the Commission, in coordination with the Office of Internet Connectivity and Growth, to be affordable for a household with an income of 136 percent of the poverty threshold, as determined by using criteria of poverty established by the Bureau of the Census, for a four-person household that includes two dependents under the age of 18.

“(2) ANCHOR INSTITUTION.—The term ‘anchor institution’—

“(A) means a public or private school, a library, a medical or healthcare provider, a museum, a public safety entity, a public housing agency (as defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))), a community college, an institution of higher education, a religious organization, or any other community support organization or agency; and

“(B) includes any entity described in subparagraph (A) that serves an Indian Tribe, tribally designated entity, or Native Hawaiian organization.

“(3) AREA.—The term ‘area’ means the geographic unit of measurement with the greatest level of granularity reasonably feasible for the Commission to use in making eligibility determinations under this section and in meeting the requirements and deadlines of this section.

“(4) AREA WITH LOW-TIER SERVICE.—The term ‘area with low-tier service’ means an area where at least 90 percent of the population has access to broadband service offered—

“(A) with a download speed of at least 25 megabits per second but less than 100 megabits per second;

“(B) with an upload speed of at least 25 megabits per second but less than 100 megabits per second; and

“(C) with latency that is sufficiently low to allow multiple, simultaneous, real-time, interactive applications.

“(5) AREA WITH MID-TIER SERVICE.—The term ‘area with mid-tier service’ means an area where at least 90 percent of the population has access to broadband service offered—

“(A) with a download speed of at least 100 megabits per second but less than 1 gigabit per second;

“(B) with an upload speed of at least 100 megabits per second but less than 1 gigabit per second; and

“(C) with latency that is sufficiently low to allow multiple, simultaneous, real-time, interactive applications.

“(6) ASSISTANT SECRETARY.—The term ‘Assistant Secretary’ means the Assistant Secretary of Commerce for Communications and Information.

“(7) BROADBAND SERVICE.—The term ‘broadband service’—

“(A) means broadband internet access service that is a mass-market retail service, or a service provided to an anchor institution,

by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service;

“(B) includes any service that is a functional equivalent of the service described in subparagraph (A); and

“(C) does not include dial-up internet access service.

“(8) COLLECTIVE BARGAINING.—The term ‘collective bargaining’ means performance of the mutual obligation described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)).

“(9) COLLECTIVE BARGAINING AGREEMENT.—The term ‘collective bargaining agreement’ means an agreement reached through collective bargaining.

“(10) FUNDING RECIPIENT.—The term ‘funding recipient’ means an entity that receives funding for a project under this section, which may include—

“(A) a private entity, a public-private partnership, a cooperative, and a Tribal or municipal broadband service provider; and

“(B) a consortium between any of the entities described in subparagraph (A), including a consortium that includes an investor-owned utility.

“(11) HIGH-POVERTY AREA.—The term ‘high-poverty area’ means a census tract with a poverty rate of at least 20 percent, as measured by the most recent 5-year data series available from the American Community Survey of the Bureau of the Census as of the year before the date of the enactment of this section. In the case of a territory or possession of the United States in which no such data is collected from the American Community Survey of the Bureau of the Census as of the year before the date of the enactment of this section, such term includes a census tract with a poverty rate of at least 20 percent, as measured by the most recent Island Areas decennial census

of the Bureau of the Census for which data is available as of the year before the date of the enactment of this section.

“(12) INDIAN TRIBE.—The term ‘Indian Tribe’ has the meaning given such term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(e)).

“(13) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’—

“(A) has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); and

“(B) includes a postsecondary vocational institution.

“(14) LABOR ORGANIZATION.—The term ‘labor organization’ has the meaning given the term in section 2 of the National Labor Relations Act (29 U.S.C. 152).

“(15) NATIVE HAWAIIAN ORGANIZATION.—The term ‘Native Hawaiian organization’ means any organization—

“(A) that serves the interests of Native Hawaiians;

“(B) in which Native Hawaiians serve in substantive and policymaking positions;

“(C) that has as a primary and stated purpose the provision of services to Native Hawaiians; and

“(D) that is recognized for having expertise in Native Hawaiian affairs, digital connectivity, or access to broadband service.

“(16) PERSISTENT POVERTY COUNTY.—The term ‘persistent poverty county’ means any county with a poverty rate of at least 20 percent, as determined in each of the 1990 and 2000 decennial censuses and in the Small Area Income and Poverty Estimates of the Bureau of the Census for the most recent year for which the Estimates are available. In the case of a territory or possession of the United States, such term includes any county equivalent area in Puerto Rico with a

poverty rate of at least 20 percent, as determined in each of the 1990 and 2000 decennial censuses and in the most recent 5-year data series available from the American Community Survey of the Bureau of the Census as of the year before the date of the enactment of this section, or any other territory or possession of the United States with a poverty rate of at least 20 percent, as determined in each of the 1990 and 2000 Island Areas decennial censuses of the Bureau of the Census and in the most recent Island Areas decennial census of the Bureau of the Census for which data is available as of the year before the date of the enactment of this section.

“(17) POSTSECONDARY VOCATIONAL INSTITUTION.—The term ‘postsecondary vocational institution’ has the meaning given the term in section 102(c) of the Higher Education Act of 1965 (20 U.S.C. 1002(c)).

“(18) PROGRAM.—Unless otherwise indicated, the term ‘program’ means the program established under subsection (a).

“(19) PROJECT.—The term ‘project’ means an undertaking by a funding recipient under this section to construct and deploy infrastructure for the provision of broadband service.

“(20) STATE.—The term ‘State’ has the meaning given such term in section 3, except that such term also includes the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

“(21) TRIBALLY DESIGNATED ENTITY.—The term ‘tribally designated entity’ means an entity designated by an Indian Tribe for purposes of paragraph (2)(B).

“(22) UNSERVED ANCHOR INSTITUTION.—The term ‘unserved anchor institution’ means an anchor institution that has no access to broadband service or does not have access to broadband service offered—

“(A) with a download speed of at least 1 gigabit per second per 1,000 users;

“(B) with an upload speed of at least 1 gigabit per second per 1,000 users; and

“(C) with latency that is sufficiently low to allow multiple, simultaneous, real-time, interactive applications.

“(23) UNSERVED AREA.—The term ‘unserved area’ means an area where—

“(A) the Commission reasonably believes there are potential subscribers of broadband service; and

“(B) at least 90 percent of the population has no access to broadband service or does not have access to broadband service offered—

“(i) with a download speed of at least 25 megabits per second;

“(ii) with an upload speed of at least 25 megabits per second; and

“(iii) with latency that is sufficiently low to allow multiple, simultaneous, real-time, interactive applications.”.

(b) AUTHORIZATION OF APPROPRIATIONS FOR TRIBAL BROADBAND CONNECTIVITY PROGRAM.—

(1) IN GENERAL.—Section 905(c) of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260) is amended by adding at the end the following:

“(9) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Assistant Secretary \$500,000,000 for fiscal year 2022 to carry out the grant program under this subsection, and such amount is authorized to remain available through fiscal year 2026.”.

(2) CONFORMING AMENDMENTS.—Section 905 of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260) is amended—

(A) in subsection (c), by inserting “or paragraph (9) of this subsection” after “subsection (b)(1)” each place it appears; and

(B) in subsection (e)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by inserting after “this Act” the following: “(and, in the case of the grant program under subsection (c), not earlier than 30 days, and not later than 60 days, after the date of enactment of any other law making available amounts to carry out such program)”; and

(II) in subparagraph (A), by inserting after “eligible entities and covered partnerships” the following: “(or, in the case of a notice issued by reason of the enactment of a law, other than this Act, making available amounts to carry out the grant program under subsection (c), eligible entities)”; and

(ii) in paragraph (2)(A), by inserting after “an eligible entity or covered partnership” the following: “(or, in the case of a notice issued by reason of the enactment of a law, other than this Act, making available amounts to carry out the grant program under subsection (c), an eligible entity)”.

SEC. 3102. TRIBAL INTERNET EXPANSION.

Section 254(b)(3) of the Communications Act of 1934 (47 U.S.C. 254(b)(3)) is amended by inserting “and in Indian country (as defined in section 1151 of title 18, United States Code) and areas with high populations of Indian (as defined in section 19 of the Act of June 18, 1934 (Chapter 576; 48 Stat. 988; 25 U.S.C. 5129)) people” after “high cost areas”.

subtitle B—Broadband Infrastructure Finance and Innovation

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the “Broadband Infrastructure Finance and Innovation Act of 2021”.

SEC. 3202. DEFINITIONS.

In this subtitle:

(1) **BIFIA PROGRAM.**—The term “BIFIA program” means the broadband infrastructure finance and innovation program established under this subtitle.

(2) **BROADBAND SERVICE.**—The term “broadband service”—

(A) means broadband internet access service that is a mass-market retail service, or a service provided to an entity described in paragraph (11)(B)(ii), by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service;

(B) includes any service that is a functional equivalent of the service described in subparagraph (A); and

(C) does not include dial-up internet access service.

(3) **ELIGIBLE PROJECT COSTS.**—The term “eligible project costs” means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, historic preservation review, permitting, preliminary engineering and design work, and other preconstruction activities;

(B) construction and deployment phase activities, including—

(i) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land relating to the project and improvements to land), equipment, instrumentation, networking capability, hardware and software, and digital network technology;

(ii) environmental mitigation; and

(iii) construction contingencies; and

(C) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction and deployment.

(4) **FEDERAL CREDIT INSTRUMENT.**—The term “Federal credit instrument” means a secured loan, loan guarantee, or line of credit authorized to be made available under the BIFIA program with respect to a project.

(5) **INVESTMENT-GRADE RATING.**—The term “investment-grade rating” means a rating of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a rating agency to project obligations.

(6) **LENDER.**—The term “lender” means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(7) **LETTER OF INTEREST.**—The term “letter of interest” means a letter submitted by a potential applicant prior to an application for

credit assistance in a format prescribed by the Assistant Secretary on the website of the BIFIA program that—

(A) describes the project and the location, purpose, and cost of the project;

(B) outlines the proposed financial plan, including the requested credit assistance and the proposed obligor;

(C) provides a status of environmental review; and

(D) provides information regarding satisfaction of other eligibility requirements of the BIFIA program.

(8) **LINE OF CREDIT.**—The term “line of credit” means an agreement entered into by the Assistant Secretary with an obligor under section 3205 to provide a direct loan at a future date upon the occurrence of certain events.

(9) **LOAN GUARANTEE.**—The term “loan guarantee” means any guarantee or other pledge by the Assistant Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(10) **OBLIGOR.**—The term “obligor” means a party that—

(A) is primarily liable for payment of the principal of or interest on a Federal credit instrument; and

(B) may be a corporation, company, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(11) **PROJECT.**—The term “project” means a project—

(A) to construct and deploy infrastructure for the provision of broadband service; and

(B) that the Assistant Secretary determines will—

(i) provide access or improved access to broadband service to consumers residing in areas of the United States that have no

access to broadband service or do not have access to broadband service offered—

(I) with a download speed of at least 100 megabits per second;

(II) with an upload speed of at least 100 megabits per second; and

(III) with latency that is sufficiently low to allow multiple, simultaneous, real-time, interactive applications; or

(ii) provide access or improved access to broadband service to—

(I) schools, libraries, medical and healthcare providers, community colleges and other institutions of higher education, museums, religious organizations, and other community support organizations and entities to facilitate greater use of broadband service by or through such organizations;

(II) organizations and agencies that provide outreach, access, equipment, and support services to facilitate greater use of broadband service by low-income, unemployed, aged, and otherwise vulnerable populations;

(III) job-creating strategic facilities located within a State-designated economic zone, Economic Development District designated by the Department of Commerce, Empowerment Zone designated by the Department of Housing and Urban Development, or Enterprise Community designated by the Department of Agriculture; or

(IV) public safety agencies.

(12) **PROJECT OBLIGATION.**—The term “project obligation” means any note, bond, debenture, or other debt obligation issued by an

obligor in connection with the financing of a project, other than a Federal credit instrument.

(13) **PUBLIC AUTHORITY.**—The term “public authority” means a Federal, State, county, town or township, Indian Tribe, municipal, or other local government or instrumentality with authority to finance, build, operate, or maintain infrastructure for the provision of broadband service.

(14) **RATING AGENCY.**—The term “rating agency” means a credit rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))).

(15) **SECURED LOAN.**—The term “secured loan” means a direct loan or other debt obligation issued by an obligor and funded by the Assistant Secretary in connection with the financing of a project under section 3204.

(16) **SMALL PROJECT.**—The term “small project” means a project having eligible project costs that are reasonably anticipated not to equal or exceed \$20,000,000.

(17) **SUBSIDY AMOUNT.**—The term “subsidy amount” means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument—

(A) calculated on a net present value basis; and

(B) excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(18) **SUBSTANTIAL COMPLETION.**—The term “substantial completion” means, with respect to a project receiving credit assistance under the BIFIA program—

(A) the commencement of the provision of broadband service using the infrastructure being financed; or

(B) a comparable event, as determined by the Assistant Secretary and specified in the credit agreement.

SEC. 3203. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.

(a) ELIGIBILITY.—

(1) **IN GENERAL.**—A project shall be eligible to receive credit assistance under the BIFIA program if—

(A) the entity proposing to carry out the project submits a letter of interest prior to submission of a formal application for the project; and

(B) the project meets the criteria described in this subsection.

(2) CREDITWORTHINESS.—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), to be eligible for assistance under the BIFIA program, a project shall satisfy applicable creditworthiness standards, which, at a minimum, shall include—

(i) adequate coverage requirements to ensure repayment;

(ii) an investment-grade rating from at least two rating agencies on debt senior to the Federal credit instrument; and

(iii) a rating from at least two rating agencies on the Federal credit instrument.

(B) **SMALL PROJECTS.**—In order for a small project to be eligible for assistance under the BIFIA program, such project shall satisfy alternative creditworthiness standards that shall be established by the Assistant Secretary under section 3206 for purposes of this paragraph.

(3) **APPLICATION.**—A State, local government, agency or instrumentality of a State or local government, public authority, public-private partnership, or any other legal entity undertaking the project and

authorized by the Assistant Secretary shall submit a project application that is acceptable to the Assistant Secretary.

(4) **ELIGIBLE PROJECT COST PARAMETERS FOR INFRASTRUCTURE PROJECTS.**—Eligible project costs shall be reasonably anticipated to equal or exceed \$2,000,000 in the case of a project or program of projects—

(A) in which the applicant is a local government, instrumentality of local government, or public authority (other than a public authority that is a Federal or State government or instrumentality);

(B) located on a facility owned by a local government; or

(C) for which the Assistant Secretary determines that a local government is substantially involved in the development of the project.

(5) **DEDICATED REVENUE SOURCES.**—The applicable Federal credit instrument shall be repayable, in whole or in part, from—

(A) amounts charged to—

(i) subscribers of broadband service for such service; or

(ii) subscribers of any related service provided over the same infrastructure for such related service;

(B) user fees;

(C) payments owing to the obligor under a public-private partnership; or

(D) other dedicated revenue sources that also secure or fund the project obligations.

(6) **APPLICATIONS WHERE OBLIGOR WILL BE IDENTIFIED LATER.**—A State, local government, agency or instrumentality of a State or local government, or public authority may

submit to the Assistant Secretary an application under paragraph (3), under which a private party to a public-private partnership will be—

(A) the obligor; and

(B) identified later through completion of a procurement and selection of the private party.

(7) **BENEFICIAL EFFECTS.**—The Assistant Secretary shall determine that financial assistance for the project under the BIFIA program will—

(A) foster, if appropriate, partnerships that attract public and private investment for the project;

(B) enable the project to proceed at an earlier date than the project would otherwise be able to proceed or reduce the lifecycle costs (including debt service costs) of the project; and

(C) reduce the contribution of Federal grant assistance for the project.

(8) **PROJECT READINESS.**—To be eligible for assistance under the BIFIA program, the applicant shall demonstrate a reasonable expectation that the contracting process for the construction and deployment of infrastructure for the provision of broadband service through the project can commence by no later than 90 days after the date on which a Federal credit instrument is obligated for the project under the BIFIA program.

(9) **PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.**—

(A) **IN GENERAL.**—If an eligible project is carried out by an entity that is not a State or local government or an agency or instrumentality of a State or local government or a Tribal Government or consortium of Tribal Governments, the project shall be publicly sponsored.

(B) **PUBLIC SPONSORSHIP.**—For purposes of this subtitle, a project shall be considered to be publicly sponsored if the obligor

can demonstrate, to the satisfaction of the Assistant Secretary, that the project applicant has consulted with the State, local, or Tribal government in the area in which the project is located, or that is otherwise affected by the project, and that such government supports the proposal.

(b) SELECTION AMONG ELIGIBLE PROJECTS.—

(1) ESTABLISHMENT OF APPLICATION PROCESS.—The Assistant Secretary shall establish a rolling application process under which projects that are eligible to receive credit assistance under subsection (a) shall receive credit assistance on terms acceptable to the Assistant Secretary, if adequate funds are available to cover the subsidy costs associated with the Federal credit instrument.

(2) PRELIMINARY RATING OPINION LETTER.—The Assistant Secretary shall require each project applicant to provide—

(A) a preliminary rating opinion letter from at least one rating agency—

(i) indicating that the senior obligations of the project, which may be the Federal credit instrument, have the potential to achieve an investment-grade rating; and

(ii) including a preliminary rating opinion on the Federal credit instrument; or

(B) in the case of a small project, alternative documentation that the Assistant Secretary shall require in the standards established under section 3206 for purposes of this paragraph.

(3) TECHNOLOGY NEUTRALITY REQUIRED.—In selecting projects to receive credit assistance under the BIFIA program, the Assistant Secretary may not favor a project using any particular technology.

(4) PREFERENCE FOR OPEN-ACCESS NETWORKS.—In selecting projects to receive credit assistance under the BIFIA program,

the Assistant Secretary shall give preference to projects providing for the deployment of open-access broadband service networks.

(c) FEDERAL REQUIREMENTS.—

(1) IN GENERAL.—The following provisions of law shall apply to funds made available under the BIFIA program and projects assisted with those funds:

(A) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(B) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(C) 54 U.S.C. 300101 et seq. (commonly referred to as the “National Historic Preservation Act”).

(D) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(2) NEPA.—No funding shall be obligated for a project that has not received an environmental categorical exclusion, a finding of no significant impact, or a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) TITLE VI OF THE CIVIL RIGHTS ACT OF 1964.—For purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), any project that receives credit assistance under the BIFIA program shall be considered a program or activity within the meaning of section 606 of such title (42 U.S.C. 2000d–4a).

(4) CONTRACTING REQUIREMENTS.—All laborers and mechanics employed by contractors or subcontractors in the performance of construction, alteration, or repair work carried out, in whole or in part, with assistance made available through a Federal credit instrument shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor

standards in this paragraph, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

(5) NEUTRALITY REQUIREMENT.—An employer receiving assistance made available through a Federal credit instrument under this subtitle shall remain neutral with respect to the exercise of employees and labor organizations of the right to organize and bargain under the National Labor Relations Act (29 U.S.C. 151 et seq.).

(6) REFERRAL OF ALLEGED VIOLATIONS OF APPLICABLE FEDERAL LABOR AND EMPLOYMENT LAWS.—The Assistant Secretary shall refer any alleged violation of an applicable labor and employment law to the appropriate Federal agency for investigation and enforcement, and any alleged violation of paragraph (4) or (5) to the National Labor Relations Board for investigation and enforcement, utilizing all appropriate remedies up to and including debarment from the BIFIA program.

(d) APPLICATION PROCESSING PROCEDURES.—

(1) NOTICE OF COMPLETE APPLICATION.—Not later than 30 days after the date of receipt of an application under this section, the Assistant Secretary shall provide to the applicant a written notice to inform the applicant whether—

(A) the application is complete; or

(B) additional information or materials are needed to complete the application.

(2) APPROVAL OR DENIAL OF APPLICATION.—Not later than 60 days after the date of issuance of the written notice under paragraph (1), the Assistant Secretary shall provide to the applicant a written notice informing the applicant whether the Assistant Secretary has approved or disapproved the application.

(3) APPROVAL BEFORE NEPA REVIEW.—Subject to subsection (c)(2), an application for a project may be approved before

the project receives an environmental categorical exclusion, a finding of no significant impact, or a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) DEVELOPMENT PHASE ACTIVITIES.—Any credit instrument secured under the BIFIA program may be used to finance up to 100 percent of the cost of development phase activities as described in section 3202(3)(A).

SEC. 3204. SECURED LOANS.

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) and (3), the Assistant Secretary may enter into agreements with one or more obligors to make secured loans, the proceeds of which shall be used—

(A) to finance eligible project costs of any project selected under section 3203;

(B) to refinance interim construction financing of eligible project costs of any project selected under section 3203; or

(C) to refinance long-term project obligations or Federal credit instruments, if the refinancing provides additional funding capacity for the completion, enhancement, or expansion of any project that—

(i) is selected under section 3203; or

(ii) otherwise meets the requirements of section 3203.

(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B)—

(A) if the maturity of such interim construction financing is later than 1 year after the substantial completion of the project; and

(B) later than 1 year after the date of substantial completion of the project.

(3) **RISK ASSESSMENT.**—Before entering into an agreement under this subsection, the Assistant Secretary, in consultation with the Director of the Office of Management and Budget, shall determine an appropriate capital reserve subsidy amount for each secured loan, taking into account each rating letter provided by a rating agency under section 3203(b)(2)(A)(ii) or, in the case of a small project, the alternative documentation provided under section 3203(b)(2)(B).

(b) **TERMS AND LIMITATIONS.**—

(1) **IN GENERAL.**—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Assistant Secretary determines to be appropriate.

(2) **MAXIMUM AMOUNT.**—The amount of a secured loan under this section shall not exceed the lesser of 49 percent of the reasonably anticipated eligible project costs or, if the secured loan is not for a small project and does not receive an investment-grade rating, the amount of the senior project obligations.

(3) **PAYMENT.**—A secured loan under this section—

(A) shall—

(i) be payable, in whole or in part, from—

(I) amounts charged to—

(aa) subscribers of broadband service for such service; or

(bb) subscribers of any related service provided over the same infrastructure for such related service;

(II) user fees;

(III) payments owing to the obligor under a public-private partnership; or

(IV) other dedicated revenue sources that also secure the senior project obligations; and

(ii) include a coverage requirement or similar security feature supporting the project obligations; and

(B) may have a lien on revenues described in subparagraph (A), subject to any lien securing project obligations.

(4) **INTEREST RATE.**—The interest rate on a secured loan under this section shall be not less than the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(5) **MATURITY DATE.**—The final maturity date of the secured loan shall be the lesser of—

(A) 35 years after the date of substantial completion of the project; and

(B) if the useful life of the infrastructure for the provision of broadband service being financed is of a lesser period, the useful life of the infrastructure.

(6) **NONSUBORDINATION.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(B) **PREEXISTING INDENTURE.**—

(i) **IN GENERAL.**—The Assistant Secretary shall waive the requirement under subparagraph (A) for a public agency borrower that is financing ongoing capital programs and has outstanding senior bonds under a preexisting indenture, if—

(I) the secured loan—

(aa) is rated in the A category or higher; or

(bb) in the case of a small project, meets an alternative standard that the Assistant Secretary shall establish under section 3206 for purposes of this subclause;

(II) the secured loan is secured and payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge or a system-backed pledge of project revenues; and

(III) the BIFIA program share of eligible project costs is 33 percent or less.

(ii) **LIMITATION.**—If the Assistant Secretary waives the nonsubordination requirement under this subparagraph—

(I) the maximum credit subsidy to be paid by the Federal Government shall be not more than 10 percent of the principal amount of the secured loan; and

(II) the obligor shall be responsible for paying the remainder of the subsidy cost, if any.

(7) **FEES.**—The Assistant Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of making a secured loan under this section.

(8) **NON-FEDERAL SHARE.**—The proceeds of a secured loan under the BIFIA program, if the loan is repayable from non-Federal funds—

(A) may be used for any non-Federal share of project costs required under this subtitle; and

(B) shall not count toward the total Federal assistance provided for a project for purposes of paragraph (9).

(9) MAXIMUM FEDERAL INVOLVEMENT.—The total Federal assistance provided for a project receiving a loan under the BIFIA program shall not exceed 80 percent of the total project cost.

(c) REPAYMENT.—

(1) SCHEDULE.—The Assistant Secretary shall establish a repayment schedule for each secured loan under this section based on—

(A) the projected cash flow from project revenues and other repayment sources; and

(B) the useful life of the infrastructure for the provision of broadband service being financed.

(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

(3) DEFERRED PAYMENTS.—

(A) IN GENERAL.—If, at any time after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal and interest on the secured loan, the Assistant Secretary may, subject to subparagraph (C), allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan.

(C) CRITERIA.—

(i) **IN GENERAL.**—Any payment deferral under subparagraph (A) shall be contingent on the project meeting criteria established by the Assistant Secretary.

(ii) **REPAYMENT STANDARDS.**—The criteria established pursuant to clause (i) shall include standards for reasonable assurance of repayment.

(4) **PREPAYMENT.**—

(A) **USE OF EXCESS REVENUES.**—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

(B) **USE OF PROCEEDS OF REFINANCING.**—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) **SALE OF SECURED LOANS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), as soon as practicable after substantial completion of a project and after notifying the obligor, the Assistant Secretary may sell to another entity or reoffer into the capital markets a secured loan for the project if the Assistant Secretary determines that the sale or reoffering can be made on favorable terms.

(2) **CONSENT OF OBLIGOR.**—In making a sale or reoffering under paragraph (1), the Assistant Secretary may not change the original terms and conditions of the secured loan without the written consent of the obligor.

(e) **LOAN GUARANTEES.**—

(1) **IN GENERAL.**—The Assistant Secretary may provide a loan guarantee to a lender in lieu of making a secured loan under this section

if the Assistant Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

(2) TERMS.—The terms of a loan guarantee under paragraph (1) shall be consistent with the terms required under this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Assistant Secretary.

(f) STREAMLINED APPLICATION PROCESS.—

(1) IN GENERAL.—The Assistant Secretary shall develop one or more expedited application processes, available at the request of entities seeking secured loans under the BIFIA program, that use a set or sets of conventional terms established pursuant to this section.

(2) TERMS.—In establishing the streamlined application process required by this subsection, the Assistant Secretary may allow for an expedited application period and include terms such as those that require—

(A) that the project be a small project;

(B) the secured loan to be secured and payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge, tax increment financing, or a system-backed pledge of project revenues; and

(C) repayment of the loan to commence not later than 5 years after disbursement.

SEC. 3205. LINES OF CREDIT.

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Assistant Secretary may enter into agreements to make available to one or more obligors lines of credit in the form of direct loans to be made by the Assistant Secretary at future dates on the occurrence of certain events for any project selected under section 3203.

(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

(3) RISK ASSESSMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), before entering into an agreement under this subsection, the Assistant Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section 3203(b)(2)(A), shall determine an appropriate capital reserve subsidy amount for each line of credit, taking into account the rating opinion letter.

(B) SMALL PROJECTS.—Before entering into an agreement under this subsection to make available a line of credit for a small project, the Assistant Secretary, in consultation with the Director of the Office of Management and Budget, shall determine an appropriate capital reserve subsidy amount for each such line of credit, taking into account the alternative documentation provided under section 3203(b)(2)(B) instead of preliminary rating opinion letters provided under section 3203(b)(2)(A).

(4) INVESTMENT-GRADE RATING REQUIREMENT.—The funding of a line of credit under this section shall be contingent on—

(A) the senior obligations of the project receiving an investment-grade rating from 2 rating agencies; or

(B) in the case of a small project, the project meeting an alternative standard that the Assistant Secretary shall establish under section 3206 for purposes of this paragraph.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain

such covenants, representations, warranties, and requirements (including requirements for audits) as the Assistant Secretary determines to be appropriate.

(2) **MAXIMUM AMOUNTS.**—The total amount of a line of credit under this section shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(3) **DRAWS.**—Any draw on a line of credit under this section shall—

(A) represent a direct loan; and

(B) be made only if net revenues from the project (including capitalized interest, but not including reasonably required financing reserves) are insufficient to pay the costs specified in subsection (a)(2).

(4) **INTEREST RATE.**—The interest rate on a direct loan resulting from a draw on the line of credit shall be not less than the yield on 30-year United States Treasury securities, as of the date of execution of the line of credit agreement.

(5) **SECURITY.**—A line of credit issued under this section—

(A) shall—

(i) be payable, in whole or in part, from—

(I) amounts charged to—

(aa) subscribers of broadband service for such service; or

(bb) subscribers of any related service provided over the same infrastructure for such related service;

(II) user fees;

(III) payments owing to the obligor under a public-private partnership; or

(IV) other dedicated revenue sources that also secure the senior project obligations; and

(ii) include a coverage requirement or similar security feature supporting the project obligations; and

(B) may have a lien on revenues described in subparagraph (A), subject to any lien securing project obligations.

(6) PERIOD OF AVAILABILITY.—The full amount of a line of credit under this section, to the extent not drawn upon, shall be available during the 10-year period beginning on the date of substantial completion of the project.

(7) RIGHTS OF THIRD-PARTY CREDITORS.—

(A) AGAINST FEDERAL GOVERNMENT.—A third-party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on a line of credit under this section.

(B) ASSIGNMENT.—An obligor may assign a line of credit under this section to—

(i) one or more lenders; or

(ii) a trustee on the behalf of such a lender.

(8) NONSUBORDINATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(B) PRE-EXISTING INDENTURE.—

(i) IN GENERAL.—The Assistant Secretary shall waive the requirement of subparagraph (A) for a public agency

borrower that is financing ongoing capital programs and has outstanding senior bonds under a preexisting indenture, if—

(I) the line of credit—

(aa) is rated in the A category or higher; or

(bb) in the case of a small project, meets an alternative standard that the Assistant Secretary shall establish under section 3206 for purposes of this subclause;

(II) the BIFIA program loan resulting from a draw on the line of credit is payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge or a system-backed pledge of project revenues; and

(III) the BIFIA program share of eligible project costs is 33 percent or less.

(ii) **LIMITATION.**—If the Assistant Secretary waives the nonsubordination requirement under this subparagraph—

(I) the maximum credit subsidy to be paid by the Federal Government shall be not more than 10 percent of the principal amount of the secured loan; and

(II) the obligor shall be responsible for paying the remainder of the subsidy cost.

(9) **FEES.**—The Assistant Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of providing a line of credit under this section.

(10) **RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.**—A project that receives a line of credit under this section also shall not receive a secured loan or loan guarantee under section 3204 in an amount that, combined with the amount of the line of credit, exceeds 49 percent of eligible project costs.

(c) REPAYMENT.—

(1) TERMS AND CONDITIONS.—The Assistant Secretary shall establish repayment terms and conditions for each direct loan under this section based on—

(A) the projected cash flow from project revenues and other repayment sources; and

(B) the useful life of the infrastructure for the provision of broadband service being financed.

(2) TIMING.—All repayments of principal or interest on a direct loan under this section shall be scheduled—

(A) to commence not later than 5 years after the end of the period of availability specified in subsection (b)(6); and

(B) to conclude, with full repayment of principal and interest, by the date that is 25 years after the end of the period of availability specified in subsection (b)(6).

SEC. 3206. ALTERNATIVE PRUDENTIAL LENDING STANDARDS FOR SMALL PROJECTS.

Not later than 180 days after the date of the enactment of this Act, the Assistant Secretary shall establish alternative, streamlined prudential lending standards for small projects receiving credit assistance under the BIFIA program to ensure that such projects pose no additional risk to the Federal Government, as compared with projects that are not small projects.

SEC. 3207. PROGRAM ADMINISTRATION.

(a) REQUIREMENT.—The Assistant Secretary shall establish a uniform system to service the Federal credit instruments made available under the BIFIA program.

(b) FEES.—The Assistant Secretary may collect and spend fees, contingent on authority being provided in appropriations Acts, at a level that is sufficient to cover—

(1) the costs of services of expert firms retained pursuant to subsection (d); and

(2) all or a portion of the costs to the Federal Government of servicing the Federal credit instruments.

(c) **SERVICER.**—

(1) **IN GENERAL.**—The Assistant Secretary may appoint a financial entity to assist the Assistant Secretary in servicing the Federal credit instruments.

(2) **DUTIES.**—A servicer appointed under paragraph (1) shall act as the agent for the Assistant Secretary.

(3) **FEE.**—A servicer appointed under paragraph (1) shall receive a servicing fee, subject to approval by the Assistant Secretary.

(d) **ASSISTANCE FROM EXPERT FIRMS.**—The Assistant Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

(e) **EXPEDITED PROCESSING.**—The Assistant Secretary shall implement procedures and measures to economize the time and cost involved in obtaining approval and the issuance of credit assistance under the BIFIA program.

(f) **ASSISTANCE TO SMALL PROJECTS.**—Of the amount appropriated under section 3210(a), and after the set-aside for administrative expenses under section 3210(b), not less than 20 percent shall be made available for the Assistant Secretary to use in lieu of fees collected under subsection (b) for small projects.

SEC. 3208. STATE AND LOCAL PERMITS.

The provision of credit assistance under the BIFIA program with respect to a project shall not—

(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

SEC. 3209. REGULATIONS.

The Assistant Secretary may promulgate such regulations as the Assistant Secretary determines to be appropriate to carry out the BIFIA program.

SEC. 3210. FUNDING.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Assistant Secretary \$5,000,000,000 for fiscal year 2022 to carry out this subtitle, and such amount is authorized to remain available through fiscal year 2026.

(b) **ADMINISTRATIVE EXPENSES.**—Of the amount appropriated under subsection (a), the Assistant Secretary may use not more than 5 percent for the administration of the BIFIA program.

SEC. 3211. REPORTS TO CONGRESS.

(a) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, and every 2 years thereafter, the Assistant Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under the BIFIA program, including a recommendation as to whether the objectives of the BIFIA program are best served by—

(1) continuing the program under the authority of the Assistant Secretary; or

(2) establishing a Federal corporation or federally sponsored enterprise to administer the program.

(b) **APPLICATION PROCESS REPORT.**—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Assistant Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that includes a list of all of the letters of interest and applications received for assistance under the BIFIA program during the preceding fiscal year.

(2) INCLUSIONS.—

(A) IN GENERAL.—Each report under paragraph (1) shall include, at a minimum, a description of, with respect to each letter of interest and application included in the report—

(i) the date on which the letter of interest or application was received;

(ii) the date on which a notification was provided to the applicant regarding whether the application was complete or incomplete;

(iii) the date on which a revised and completed application was submitted (if applicable);

(iv) the date on which a notification was provided to the applicant regarding whether the project was approved or disapproved; and

(v) if the project was not approved, the reason for the disapproval.

(B) CORRESPONDENCE.—Each report under paragraph (1) shall include copies of any correspondence provided to the applicant in accordance with section 3203(d).

subtitle C—Wi-Fi on School Buses

SEC. 3301. E-RATE SUPPORT FOR SCHOOL BUS WI-FI.

(a) DEFINITION.—In this section, the term “school bus” means a passenger motor vehicle that is—

(1) designed to carry a driver and not less than 5 passengers; and

(2) used significantly to transport early child education, elementary school, or secondary school students to or from school or an event related to school.

(b) RULEMAKING.—Notwithstanding the limitations under paragraphs (1)(B) and (2)(A) of section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) regarding the authorized recipients and uses of discounted telecommunications services, not later than 180 days after the date of enactment of this Act, the Commission shall commence a rulemaking to make the provision of Wi-Fi access on school buses eligible for support under the E-rate program of the Commission set forth under subpart F of part 54 of title 47, Code of Federal Regulations.

TITLE IV—COMMUNITY BROADBAND

SEC. 4001. STATE, LOCAL, PUBLIC-PRIVATE PARTNERSHIP, AND CO-OP BROADBAND SERVICES.

Section 706 of the Telecommunications Act of 1996 (47 U.S.C. 1302) is amended—

(1) by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following:

“(d) STATE, LOCAL, PUBLIC-PRIVATE PARTNERSHIP, AND CO-OP ADVANCED TELECOMMUNICATIONS CAPABILITY AND SERVICES.—

“(1) IN GENERAL.—No State statute, regulation, or other State legal requirement may prohibit or have the effect of prohibiting any public provider, public-private partnership provider, or cooperatively organized provider from providing, to any person or any public or private entity, advanced telecommunications capability or any service that utilizes the advanced telecommunications capability provided by such provider.

“(2) ANTIDISCRIMINATION SAFEGUARDS.—

“(A) PUBLIC PROVIDERS.—To the extent any public provider regulates competing private providers of advanced

telecommunications capability or services that utilize advanced telecommunications capability, such public provider shall apply its ordinances and rules without discrimination in favor of itself or any provider that it owns of services that utilize advanced telecommunications capability.

“(B) PUBLIC-PRIVATE PARTNERSHIP PROVIDERS.—To the extent any State or local entity that is part of a public-private partnership provider regulates competing private providers of advanced telecommunications capability or services that utilize advanced telecommunications capability, such State or local entity shall apply its ordinances and rules without discrimination in favor of such public-private partnership provider or any provider that such State or local entity or public-private partnership provider owns of services that utilize advanced telecommunications capability.

“(3) SAVINGS CLAUSE.—Nothing in this subsection shall exempt a public provider, public-private partnership provider, or cooperatively organized provider from any Federal or State telecommunications law or regulation that applies to all providers of advanced telecommunications capability or services that utilize such advanced telecommunications capability.”; and

(2) in subsection (e), as redesignated—

(A) in the matter preceding paragraph (1), by striking “this subsection” and inserting “this section”;

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

“(2) COOPERATIVELY ORGANIZED PROVIDER.—The term ‘cooperatively organized provider’ means an entity that is treated as a cooperative under Federal tax law and that provides advanced telecommunications capability, or any service that utilizes such advanced telecommunications capability, to any person or public or private entity.”; and

(D) by adding at the end the following:

“(4) PUBLIC PROVIDER.—The term ‘public provider’ means a State or local entity that provides advanced telecommunications capability, or any service that utilizes such advanced telecommunications capability, to any person or public or private entity.

“(5) PUBLIC-PRIVATE PARTNERSHIP PROVIDER.—The term ‘public-private partnership provider’ means a public-private partnership, between a State or local entity and a private entity, that provides advanced telecommunications capability, or any service that utilizes such advanced telecommunications capability, to any person or public or private entity.

“(6) STATE OR LOCAL ENTITY.—The term ‘State or local entity’ means a State or political subdivision thereof, any agency, authority, or instrumentality of a State or political subdivision thereof, or an Indian Tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(e))).”.

TITLE V—BROADBAND INFRASTRUCTURE DEPLOYMENT

SEC. 5001. BROADBAND INFRASTRUCTURE DEPLOYMENT.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE STATE AGENCY.—The term “appropriate State agency” means a State governmental agency that is recognized by the executive branch of the State as having the experience necessary to evaluate and facilitate the installation and operation of broadband infrastructure within the State.

(2) BROADBAND.—The term “broadband” has the meaning given the term “advanced telecommunications capability” in section 706 of the Telecommunications Act of 1996 (47 U.S.C. 1302).

(3) BROADBAND CONDUIT.—The term “broadband conduit” means a conduit or innerduct for fiber optic cables (or successor

technology of greater quality and speed) that supports the provision of broadband.

(4) **BROADBAND INFRASTRUCTURE.**—The term “broadband infrastructure” means any buried or underground facility and any wireless or wireline connection that enables the provision of broadband.

(5) **BROADBAND PROVIDER.**—The term “broadband provider” means an entity that provides broadband to any person or facilitates provision of broadband to any person, including, with respect to such entity—

(A) a corporation, company, association, firm, partnership, nonprofit organization, or any other private entity;

(B) a State or local broadband provider;

(C) an Indian Tribe; and

(D) a partnership between any of the entities described in subparagraphs (A), (B), and (C).

(6) **COVERED HIGHWAY CONSTRUCTION PROJECT.**—

(A) **IN GENERAL.**—The term “covered highway construction project” means, without regard to ownership of a highway, a project to construct a new highway or an additional lane for an existing highway, to reconstruct an existing highway, or new construction, including for a paved shoulder.

(B) **EXCLUSIONS.**—The term “covered highway construction project” excludes any project—

(i) awarded before the date on which regulations required under subsection (b) take effect;

(ii) that does not include work beyond the edge of pavement or current paved shoulder; or

(iii) that does not require excavation.

(7) **DIG ONCE REQUIREMENT.**—The term “dig once requirement” means a requirement designed to reduce the cost and accelerate the deployment to broadband by minimizing the number and scale of repeated excavations for the installation and maintenance of broadband conduit or broadband infrastructure in rights-of-way.

(8) **PROJECT.**—The term “project” has the meaning given such term in section 101 of title 23, United States Code.

(9) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

(10) **STATE.**—The term “State” has the meaning given such term in section 401 of title 23, United States Code.

(11) **STATE OR LOCAL BROADBAND PROVIDER.**—The term “State or local broadband provider” means a State or political subdivision thereof, or any agency, authority, or instrumentality of a State or political subdivision thereof, that provides broadband to any person or facilitates the provision of broadband to any person in that State.

(12) **TRIBAL GOVERNMENT.**—The term “Tribal government” means the recognized governing body of an Indian Tribe or any agency, authority, or instrumentality of such governing body or such Indian Tribe.

(b) **DIG ONCE REQUIREMENT.**—To facilitate the installation of broadband infrastructure, the Secretary shall, not later than 9 months after the date of enactment of this Act, promulgate regulations to ensure that each State that receives funds under chapter 1 of title 23, United States Code, meets the following requirements:

(1) **BROADBAND PLANNING.**—The State department of transportation, in consultation with appropriate State agencies, shall—

(A) identify a broadband coordinator, who may have additional responsibilities in the State department of transportation or in another State agency, that is responsible for facilitating the broadband infrastructure right-of-way efforts within the State; and

(B) review existing State broadband plans, including existing dig once requirements of the State, municipal governments incorporated under State law, and Tribal governments within the State, to determine opportunities to coordinate projects occurring within or across highway rights-of-way with planned broadband infrastructure projects.

(2) NOTICE OF PLANNED CONSTRUCTION FOR BROADBAND PROVIDERS.—

(A) NOTICE.—The State department of transportation, in consultation with appropriate State agencies, shall establish a process—

(i) for the registration of broadband providers that seek to be included in the advance notification of, and opportunity to participate in, broadband infrastructure right-of-way facilitation efforts within the State; and

(ii) to electronically notify all broadband providers registered under clause (i)—

(I) of the State transportation improvement program on at least an annual basis; and

(II) of projects within the highway right-of-way for which Federal funding is expected to be obligated in the subsequent fiscal year.

(B) WEBSITE.—A State department of transportation shall be considered to meet the requirements of subparagraph (A) if such State department of transportation publishes on a public website—

(i) the State transportation improvement program on at least an annual basis; and

(ii) projects within the highway right-of-way for which Federal funding is expected to be obligated in the subsequent fiscal year.

(C) COORDINATION.—The State department of transportation, in consultation with appropriate State agencies, shall establish a process for a broadband provider to commit to installing broadband conduit or broadband infrastructure as part of any project.

(3) REQUIRED INSTALLATION OF CONDUIT.—

(A) IN GENERAL.—The State department of transportation shall install broadband conduit, in accordance with this paragraph, except as described in subparagraph (F), as part of any covered highway construction project, unless a broadband provider has committed to install broadband conduit or broadband infrastructure as part of such project in a process described under paragraph (2)(C).

(B) INSTALLATION REQUIREMENTS.—The State department of transportation shall ensure that—

(i) an appropriate number of broadband conduits, as determined in consultation with the appropriate State agencies, are installed along the highway of a covered highway construction project to accommodate multiple broadband providers, with consideration given to the availability of existing conduits;

(ii) the size of each such conduit is consistent with industry best practices and is sufficient to accommodate potential demand, as determined in consultation with the appropriate State agencies;

(iii) hand holes and manholes necessary for fiber access and pulling with respect to such conduit are placed at intervals consistent with standards determined in consultation with the appropriate State agencies (which may differ by type of road, topologies, and rurality) and consistent with safety requirements;

(iv) each broadband conduit installed pursuant to this paragraph includes a pull tape and is capable of supporting

fiber optic cable placement techniques consistent with best practices; and

(v) is placed at a depth consistent with requirements of the covered highway construction project and best practices and that, in determining the depth of placement, consideration is given to the location of existing utilities and cable separation requirements of State and local electrical codes.

(C) GUIDANCE FOR THE INSTALLATION OF BROADBAND CONDUIT.—The Secretary, in consultation with the Assistant Secretary, shall issue guidance for best practices related to the installation of broadband conduit as described in this paragraph and of conduit and similar infrastructure for intelligent transportation systems (as such term is defined in section 501 of title 23, United States Code) that may utilize broadband conduit installed pursuant to this paragraph.

(D) ACCESS.—

(i) IN GENERAL.—The State department of transportation shall ensure that any requesting broadband provider has access to each broadband conduit installed pursuant to this paragraph, on a competitively neutral and nondiscriminatory basis, and in accordance with State permitting, licensing, leasing, or other similar laws and regulations.

(ii) FEE SCHEDULE.—The State department of transportation, in consultation with appropriate State agencies, shall publish a fee schedule for a broadband provider to access conduit installed pursuant to this paragraph. Fees in such schedule—

(I) shall be consistent with the fees established pursuant to section 224 of the Communications Act of 1934 (47 U.S.C. 224);

(II) may vary by topography, location, type of road, rurality, and other factors in the determination of the State; and

(III) may be updated not more frequently than annually.

(iii) IN-KIND COMPENSATION.—The State department of transportation may negotiate in-kind compensation with any broadband provider requesting access to broadband conduit installed under the provisions of this paragraph as a replacement for part or all of, but not to exceed, the relevant fee in the fee schedule described in clause (ii).

(iv) SAFETY CONSIDERATIONS.—The State department of transportation shall require of broadband providers a process for safe access to the highway right-of-way during installation and on-going maintenance of the broadband fiber optic cables including a traffic control safety plan.

(v) COMMUNICATION.—A broadband provider with access to the conduit installed pursuant to this subsection shall notify and receive permission from the relevant agencies of State responsible for the installation of such broadband conduit prior to accessing any highway or highway right-of-way, in accordance with applicable Federal requirements.

(E) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, broadband conduit and broadband infrastructure installation projects under this paragraph shall comply with section 113(a) of title 23, United States Code.

(F) WAIVER AUTHORITY.—

(i) IN GENERAL.—A State department of transportation may waive the required installation of broadband conduit for part or all of any covered highway construction project under this paragraph if, in the determination of the State—

(I) broadband infrastructure, terrestrial broadband infrastructure, aerial broadband fiber cables, or broadband conduit is present near a majority of the length of the covered highway construction project;

(II) the installation of conduit increases overall costs of a covered highway construction project by 1.5 percent or greater;

(III) the installation of broadband conduit associated with covered highway construction project will not be utilized or connected to future broadband infrastructure in the next 20 years, in the determination of the State department of transportation, in consultation with appropriate State agencies and potentially affected local governments and Tribal governments;

(IV) the requirements of this paragraph would require installation of conduit redundant with a dig once requirement of a local or Tribal government;

(V) there exists a circumstance involving force majeure; or

(VI) other relevant factors, as determined by the Secretary in consultation with the Assistant Secretary through regulation, warrant a waiver.

(ii) **CONTENTS OF WAIVER.**—A waiver authorized under this subparagraph shall—

(I) identify the covered highway construction project; and

(II) include a brief description of the determination of the State for issuing such waiver.

(iii) **AVAILABILITY OF WAIVER.**—A waiver authorized under this subparagraph shall be included in the

plans, specifications, and estimates for the associated project, as long as such info is publicly available.

(4) **PRIORITY.**—If a State provides for the installation of broadband infrastructure or broadband conduit in the right-of-way of an applicable project under this subsection, the State department of transportation, along with appropriate State agencies, shall carry out appropriate measures to ensure that any existing broadband providers are afforded equal opportunity access, as compared to other broadband providers, with respect to the program under this subsection.

(5) **CONSULTATION.**—

(A) **IN GENERAL.**—In promulgating regulations required by this subsection or to implement any part of this section, the Secretary shall consult—

(i) the Assistant Secretary;

(ii) the Commission;

(iii) State departments of transportation;

(iv) appropriate State agencies;

(v) agencies of local governments responsible for transportation and rights-of-way, utilities, and telecommunications and broadband;

(vi) Tribal governments;

(vii) broadband providers; and

(viii) manufacturers of optical fiber, conduit, pull tape, and related items.

(B) **BROADBAND USERS.**—The Secretary shall ensure that the entities consulted under clauses (iii) through (vi) of subparagraph (A) include rural areas and populations with limited access to broadband infrastructure.

(C) BROADBAND PROVIDERS.—The Secretary shall ensure that the entities consulted under clause (vii) of subparagraph (A) include entities who provide broadband to rural areas and populations with limited access to broadband infrastructure.

(6) PROHIBITION ON UNFUNDED MANDATE.—

(A) IN GENERAL.—This subsection shall apply only to projects for which Federal obligations or expenditures are initially approved on or after the date regulations required under this subsection take effect.

(B) NO MANDATE.—Absent an available and dedicated Federal source of funding—

(i) nothing in this subsection establishes a mandate or requirement that a State install broadband conduit in a highway right-of-way; and

(ii) nothing in paragraph (3) shall establish any requirement for a State.

(7) RULES OF CONSTRUCTION.—

(A) STATE LAW.—Nothing in this subsection shall be construed to require a State to install or allow the installation of broadband conduit or broadband infrastructure—

(i) that is otherwise inconsistent with what is allowable under State law; or

(ii) where the State lacks the authority or property easement necessary for such installation.

(B) NO REQUIREMENT FOR INSTALLATION OF MOBILE SERVICES EQUIPMENT.—Nothing in this section shall be construed to require a State, a municipal government incorporated under State law, or an Indian Tribe to install or allow for the installation of equipment essential for the provision of commercial mobile services (as defined in section 332(d) of the

Communications Act of 1934 (47 U.S.C. 332(d))) or commercial mobile data service (as defined in section 6001 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1401)), other than broadband conduit and associated equipment described in paragraph (3)(B).

(c) **RELATION TO STATE DIG ONCE REQUIREMENTS.**—Nothing in subsection (b) or any regulations promulgated under subsection (b) shall be construed to alter or supersede any provision of a State law or regulation that provides for a dig once requirement that includes similar or more stringent requirements to the provisions of subsection (b) and any regulations promulgated under subsection (b).

(d) **DIG ONCE FUNDING TASK FORCE.**—

(1) **ESTABLISHMENT.**—There is established an independent task force on funding the nationwide dig once requirement described in this section to be known as the “Dig Once Funding Task Force” (hereinafter referred to as the “Task Force”).

(2) **DUTIES.**—The duties of the Task Force shall be to—

(A) estimate the annual cost for implementing and administering a nationwide dig once requirement; and

(B) propose and evaluate options for funding a nationwide dig once requirement described in this section that includes—

(i) a discussion of the role and potential share of costs of—

(I) the Federal Government;

(II) State, local, and Tribal governments; and

(III) broadband providers; and

(ii) consideration of the role of existing dig once requirements of State, local, and Tribal governments and private broadband investment, with a goal to not discourage or disincentivize such dig once requirements or such investment.

(3) **REPORTS.**—

(A) INTERIM REPORT AND BRIEFING.—Not later than 9 months after the date of enactment of this Act, the Task Force shall submit an interim report to Congress and provide briefings for Congress on the findings of the Task Force.

(B) FINAL REPORT.—Not later than 12 months after the date of enactment of this Act, the Task Force shall submit a final report to Congress on the findings of the Task Force.

(4) MEMBERS.—

(A) APPOINTMENTS.—The Task Force shall consist of 14 members, consisting of—

(i) the two co-chairs described in subparagraph (B);

(ii) six members jointly appointed by the Speaker and minority leader of the House of Representatives, in consultation with the respective Chairs and Ranking Members of the—

(I) the Committee on Transportation and Infrastructure of the House of Representatives;

(II) the Committee on Energy and Commerce of the House of Representatives; and

(III) the Committee on Appropriations of the House of Representatives; and

(iii) six members jointly appointed by the majority leader and minority leader of the Senate, in consultation with the respective Chairs and Ranking Members of the—

(I) the Committee on Environment and Public Works of the Senate;

(II) the Committee on Commerce, Science, and Transportation of the Senate; and

(III) the Committee on Appropriations of the Senate.

(B) CO-CHAIRS.—The Task Force shall be co-chaired by the Secretary and the Assistant Secretary, or their designees.

(C) COMPOSITION.—The Task Force shall include at least—

- (i) one representative from a State department of transportation;
- (ii) one representative from a local government;
- (iii) one representative from a Tribal government;
- (iv) one representative from a broadband provider;
- (v) one representative from a State or local broadband provider;
- (vi) one representative from a labor union; and
- (vii) one representative from a public interest organization.

(D) APPOINTMENT DEADLINE.—Members shall be appointed to the Task Force not later than 60 days after the date of enactment of this Act.

(E) EFFECT OF LACK OF APPOINTMENT BY APPOINTMENT DATE.—If one or more appointments required under subparagraph (A) is not made by the appointment date specified in subparagraph (D), the authority to make such appointment or appointments shall expire and the number of members of the Task Force shall be reduced by the number equal to the number of appointments so expired.

(F) TERMS.—Members shall be appointed for the life of the Task Force. A vacancy in the Task Force shall not affect its powers and shall be filled in the same manner as the initial appointment was made.

(5) CONSULTATIONS.—In carrying out the duties required under this subsection, the Task Force shall consult, at a minimum—

(A) the Commission;

(B) agencies of States including—

(i) State departments of transportation; and

(ii) appropriate State agencies;

(C) agencies of local governments responsible for transportation and rights of way, utilities, and telecommunications and broadband;

(D) Tribal governments;

(E) broadband providers and other telecommunications providers;

(F) labor unions; and

(G) State or local broadband providers and Tribal governments that act as broadband providers.

(6) ADDITIONAL PROVISIONS.—

(A) EXPENSES FOR NON-FEDERAL MEMBERS.—Non-Federal members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Task Force.

(B) STAFF.—Staff of the Task Force shall comprise detailees with relevant expertise from the Department of Transportation and the National Telecommunications and Information Administration, or another Federal agency the co-chairpersons consider appropriate, with the consent of the head of the Federal agency, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(C) ADMINISTRATIVE ASSISTANCE.—The Secretary and Assistant Secretary shall provide to the Task Force on a reimbursable basis administrative support and other services for the performance of the functions of the Task Force.

(7) TERMINATION.—The Task Force shall terminate not later than 90 days after issuance of the final report required under paragraph (3)(B).